

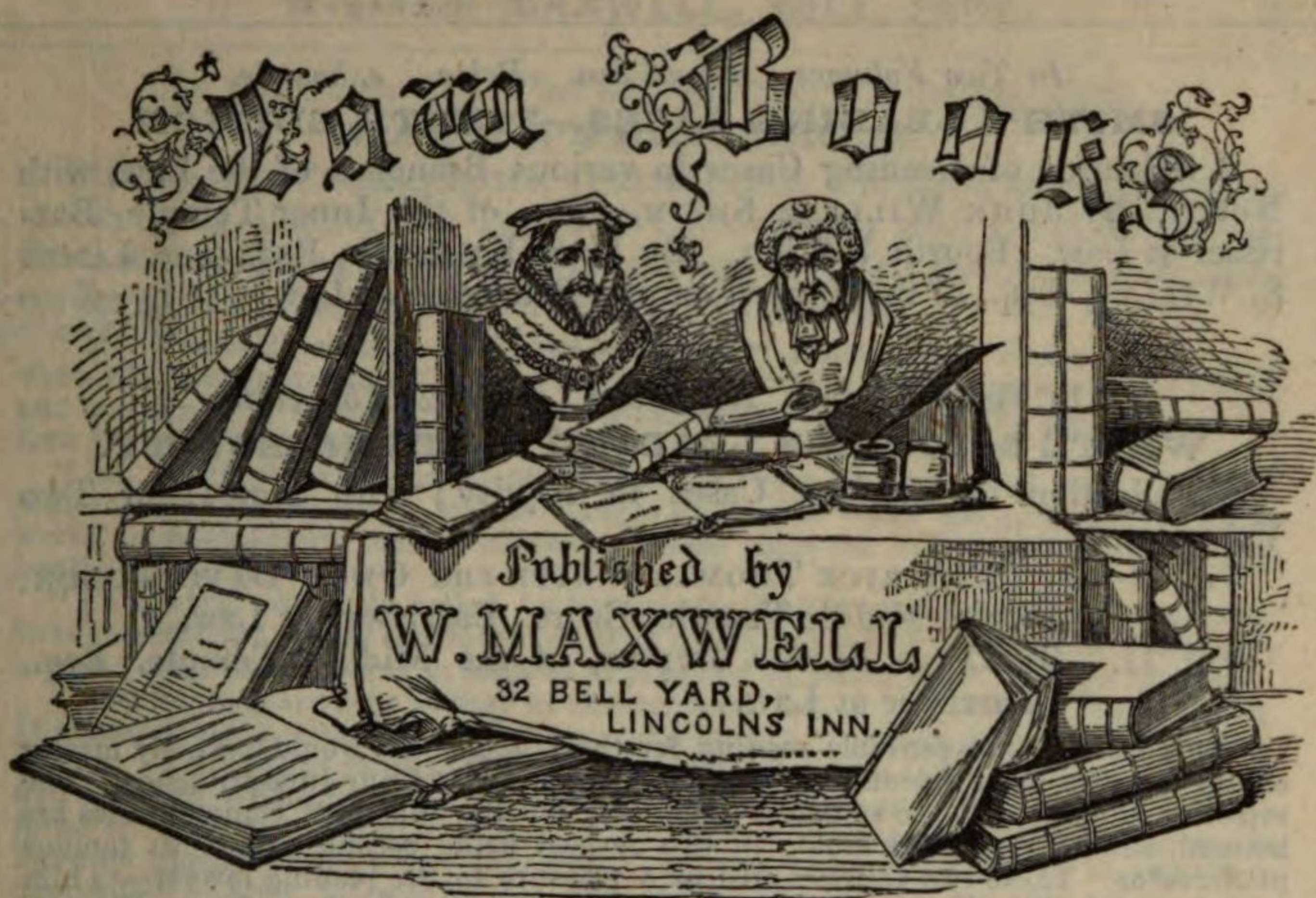
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THE LAWS
RELATING TO
BURIALS

IN
ENGLAND AND WALES,

INCLUDING

15 & 16 VICT. CAP. 85; 16 & 17 VICT. CAP. 134; 17 & 18 VICT. CAP. 87;
AND 18 & 19 VICT. CAP. 79, AND CAP. 128;

WITH

NOTES, FORMS

AND

Practical Instructions.

BY

T. BAKER, ESQ.

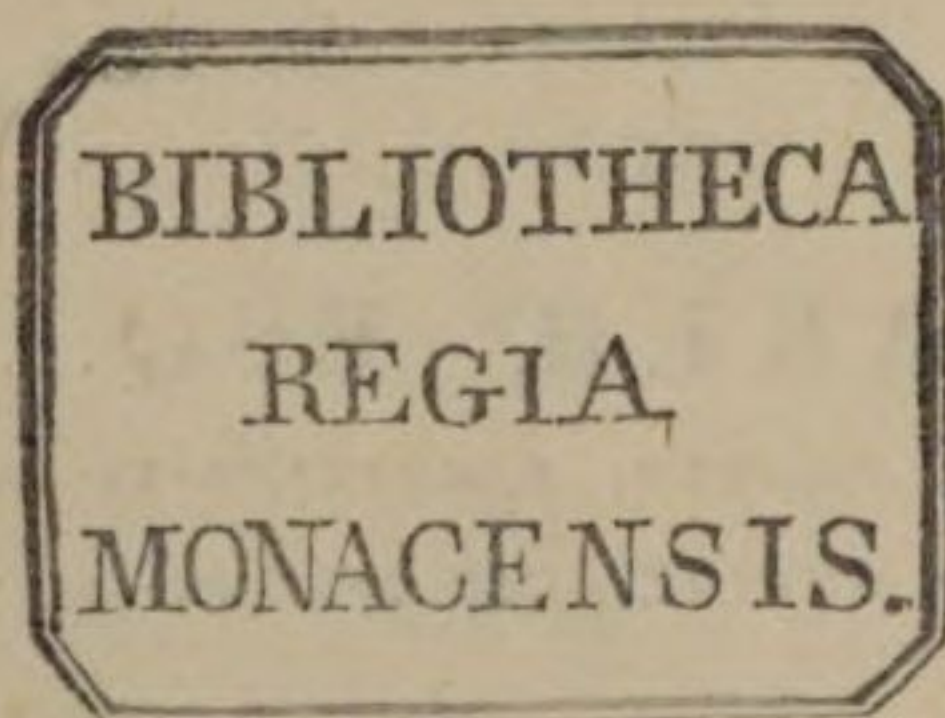
OF THE INNER TEMPLE, BARRISTER-AT-LAW:

(OF THE BURIAL ACTS OFFICE.)

LONDON:

W. MAXWELL, 32, BELL YARD, LINCOLN'S INN.
1855.

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INTRODUCTION.

THE unsatisfactory state of the Graveyards in England has long occupied the attention of Clergymen, Philanthropists, and Sanitary Reformers. Though the custom of Interment in Towns is comparatively modern, yet the practice having once become established, when a Church was built, a piece of ground was attached as a matter of course, and consecrated for the interment of the dead ; but no regulations were thought necessary, nor, in the ignorance of the necessity of sanitary precaution with respect to the living, were the laws of decency supposed to be violated so long as the corpse was placed out of sight, though but a few inches from the surface.

As towns extended and population increased, it became necessary, notwithstanding the considerable, though inadequate relief, afforded by the opening of Graveyards for Dissenters, to resort to the revolting practice of pit-burial, whereby the substratum of the

Churchyard became a continuous mass of coffins. The only rule was the will of the sexton, the only regulating process his boring iron and spade.

The enlightened efforts of Southwood Smith, Walker, Chadwick and others, during many years,—and the public attention enforced by the epidemics which have of late years ravaged our metropolis and principal towns,—resulted in a measure passed under the auspices of the late General Board of Health, entitled the Metropolitan Interments Act, 1850. Some defects in this enactment, from the want of rating powers, rendering its provisions inoperative, caused its repeal by the Burials (within the Metropolis) Act, 1852 (15 & 16 Vict. c. 85), which latter act laid the foundation of the present Law for the establishment and regulation of Burial Grounds throughout the country. Its provisions were extended in the following session to England and Wales by the 16 & 17 Vict. c. 134,—afterwards amended by the 17 & 18 Vict. c. 87,—and lastly, the whole have been further amended and consolidated by the 18 & 19 Vict. c. 128, which has just received the Royal Assent.

The powers conferred by these several statutes are embodied in the following pages, in which an attempt has been made to consolidate or arrange them in such

a manner (by omitting the repealed sections and inserting the new and altered ones in their proper places) that the whole may be read as one Act:—the consolidation being preceded by a familiar abstract or analysis of the chief enactments, and followed by a chronological arrangement of the statutes in the order and words in which they were passed; and such forms and practical instructions being appended as will, it is hoped, with the Notes and Index, render the matters of easy application to the parties interested in this important Sanitary Movement.

4, OLD PALACE YARD, WESTMINSTER,
30th August, 1855.

a manner (by counting the repeated sections and in-
 creasing the new and altered ones in their proper places)
 that the whole may be read as one Act:—the essential
 action being presented by a dramatic abstract or analysis
 of the chief characters, and told out by a variety
 of local circumstances of the scenes in the order and
 mode in which they were related; and each scene and
 particular incident being presented as well, it is
 deemed with the best and fairest, under the management
 of the author, to the reader's imagination in the proper
 and natural manner.

It is the purpose of this Introduction to explain the
 reasons for the alterations made in the original
 edition of this work, and to show that the alterations
 are necessary and proper, and that the new edition
 is in every respect superior to the old one. The
 alterations are of two kinds:—first, the correction
 of errors and omissions; and secondly, the addition
 of new material. The first kind of alterations is
 necessary for the sake of accuracy and completeness.
 The second kind of alterations is necessary for the
 sake of interest and variety. The new edition is
 in every respect superior to the old one, and is
 recommended to the reader as the best and
 fairest edition of this work.

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CLOSURE OF OLD BURIAL GROUNDS (p. 9).

Her Majesty in Council, on the representation of the Secretary of State (certain forms having been complied with) may order the discontinuance of burials in any Burial Ground in England and Wales (16 & 17 Vict. c. 134, s. 1), except such Cemeteries as may have been established under the special authority of Parliament (s. 5). Any Order in Council may be amended or repealed by any subsequent Order (18 & 19 Vict. c. 128, s. 1). Any person assisting at any burial in violation of such Order is guilty of a misdemeanor (16 & 17 Vict. c. 134, s. 3), and liable to a penalty of 10*l*. (18 & 19 Vict. c. 128, s. 2). Licence may be granted, under certain circumstances, by the Secretary of State for the continued use of private vaults and graves (16 & 17 Vict. c. 134, s. 4). No new Burial Ground can be opened in any district wherein any Order in Council has been made, without the previous approval of the Secretary of State (s. 6); but after approval and opening, such new grounds cannot be closed in future (s. 5).

APPOINTMENT OF BURIAL BOARDS (p. 16).

The churchwardens of any parish are empowered,—and if any Order in Council has been made, or notice given, they are required—to call a meeting of the Vestry to determine whether a new Burial Ground shall be provided for the parish (18 & 19 Vict. c. 128, s. 3). And if the Vestry shall resolve that a Burial Ground shall be provided, a copy of such resolution must be sent to the Secretary of State (15 & 16 Vict. c. 85, s. 10); and they shall appoint a Burial

Board for that purpose, consisting of not less than three or more than nine persons. Incumbent to be eligible, though not a ratepayer (s. 11). Vestries of two or more parishes may concur in providing one common Burial Ground (s. 23). One Burial Board may be appointed for several united parishes (18 & 19 Vict. c. 134, s. 11), or for townships having separate Burial Grounds (s. 12), or for places being parts of parishes (s. 13). Definition of terms (15 & 16 Vict. c. 85, s. 52). Town councils in boroughs may, on petition to the Queen in Council, become the Burial Boards for their respective boroughs (17 & 18 Vict. c. 87, s. 1); and like powers may be exercised (without such petition) by certain Local Boards of Health (18 & 19 Vict. c. 128, s. 20). Vacancies in the Burial Board may be filled up (15 & 16 Vict. c. 85, s. 12; 18 & 19 Vict. c. 128, s. 4). The City Commissioners of Sewers are constituted the Burial Board for the City of London (15 & 16 Vict. c. 85, s. 43).

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Meetings regulated by 15 & 16 Vict. c. 85, ss. 13, 14. Burial Board may appoint clerks, officers and servants at reasonable salaries approved by the Vestry (s. 15). They are to keep minutes of their proceedings and accounts open to inspection (s. 16), and allow copies to be taken under penalty for refusal, not exceeding 5*l.* (s. 17). The accounts to be audited annually by persons appointed by the Vestry (s. 18). Any expenses beyond receipts, approved by the Vestry, or in their default by the Secretary of State (18 & 19 Vict. c. 128, s. 6), will be defrayed out of the poor rates (15 & 16 Vict. c. 85, s. 19). Money may be borrowed on the security of the poor rates, one-twentieth of the principal to be repaid annually besides the interest (s. 20). The Public Works Loan Commissioners are authorized to advance money for the purposes of these acts (s. 21). Money may be borrowed at lower rates of interest (17 & 18 Vict. c. 128, s. 4), and to pay off former mortgages (s. 5). Any surplus above expenses is to be paid over in aid of the poor rate (15

& 16 Vict. c. 85, s. 22). Burial Boards to be incorporated, and have perpetual succession and a common seal (s. 24).

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RECEPTION AND CONVEYANCE OF THE DEAD (p. 55).

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BURIAL OF POOR PERSONS (p. 57).

When the Burial Ground of any parish is closed or overcrowded, poor persons may, at the discretion of the guardians or overseers, be buried in some neighbouring parish (18 & 19 Vict. c. 79, s. 1).

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The Secretary of State may direct inspection of, and make regulations to be observed in, any Burial Ground (15 & 16 Vict. c. 85, s. 44); parochial or non-parochial, provided under these acts, any breach of which will render the offender liable to a penalty of 10*l.* (18 & 19 Vict. c. 128, s. 8).

DISPOSITION AND CARE OF OLD GROUNDS (p. 59).

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THE
LAWS RELATING TO BURIALS
IN
ENGLAND AND WALES (a).

CLOSURE OF OLD BURIAL GROUNDS.

IN case it appear to her Majesty in council, upon the representation of one of her Majesty's principal secretaries of state, that for the protection of the public health the opening of any new burial ground in any city or town, or within any other limits, save with the previous approval of one of such secretaries of state should be prohibited, or that burials in any city or town, or within any other limits, or in any burial grounds or places of burial, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for her Majesty, by and with the advice of her privy council, to order

(a) To render clear the present state of the law at one view under each separate head, it is here proposed to insert the entire provisions of the acts, 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 17 & 18 Vict. c. 87; and 18 & 19 Vict. c. 128; (except so far as these have been repealed or altered,) so as to be read as one act, by giving all those sections of the 15 & 16 Vict. c. 85, which laid the foundation of the general enactments, and adding in each division of the subject such amendments as affect or alter the original provisions. Those portions of the 15 & 16 Vict. c. 85 which relate exclusively to the metropolis, are omitted in this place, as are also the sections of the 17 & 18 Vict. c. 87, relating to the appointment of town councils in boroughs, &c. and

that no new burial ground shall be opened in such city or town, or within such limits, without such previous approval, or (as the case may require) that after a time mentioned in the order burials in such city or town, or within such limits, or in such burial grounds or places of burial, shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require (*b*): Provided always, that notice of such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the privy council, shall be published in the *London Gazette*, and shall be affixed on the doors of the churches or chapels of, or on some other conspicuous places within, the parishes affected by such representation, one month before such representation is so considered: Provided also, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk or churchwardens of such parish.—16 & 17 Vict. c. 134, s. 1.

The provisions of this act shall not extend to authorize the discontinuance of burials, or to prevent the

certain incorporating and repealing clauses; but each of the acts will be found complete in itself, and in proper chronological order, among the statutes in the Appendix, so that those who may prefer to trace out the several ramifications of the law for themselves have the means of doing so at hand.

(*b*) All complaints or applications for the closure of existing burial grounds, for extension of time, for the alteration of Orders in Council or regulations, should be addressed to the Secretary of State, Home Office, Whitehall.

burial of the body of any person in any cemetery (*c*) established under the authority of any act of parliament, or in any burial ground or cemetery to be hereafter provided with the approval of one of her Majesty's principal secretaries of state, as herein mentioned.—16 & 17 Vict. c. 134, s. 5.

It shall be lawful for her Majesty, by and with the advice of her privy council, from time to time, to postpone the time appointed by any order in council for the discontinuance of burials, or otherwise to vary any order in council made under any of the said recited acts or this act (whether the time thereby appointed for the discontinuance of burials thereunder or other operation of such order shall or shall not have arrived), as to her Majesty, with such advice as aforesaid, may seem fit; and every order of her Majesty in council made before the passing of this act for varying any

(*c*) There has been considerable difference of opinion as to whether the expressions "cemetery" and "burial ground," used in this section, are synonymous. Some authorities have held that they are, and consequently that no burial ground established under any local act can be closed, as being expressly exempted by this section. This interpretation has indeed been carried so far, that the most overcrowded churchyard in one of our principal seaport towns has a public notice affixed at the entrance, to the effect, that burials in the same take place under the authority of the act of parliament. On the other hand an opinion, from which the following is an extract, has been given by the law officers of the Crown:—

"We have, in recent opinions on this subject, pointed out the distinction between burial grounds which, though denominated cemeteries in local acts of parliament, are in fact churchyards—that is, parochial burying places appurtenant to churches;—and cemeteries in the larger acceptation of the term—that is, burying places independent of parochial distinction, and unconnected with any particular church or place of worship—and where indeed, on the contrary, the place of worship is subordinate to the purposes of burial. We think that it is to cemeteries of the

order previously made under the said acts or any of them shall be deemed valid and effectual in law.—18 & 19 Vict. c. 128, s. 1.

No such order in council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; and nothing in this act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.—16 & 17 Vict. c. 134, s. 2.

It shall not be lawful, after the time mentioned in any such order in council for the discontinuance of burials, to bury the dead in any church, chapel, church-latter class alone that the exemption from the Burials Act extends.

(Signed) “A. E. COCKBURN,
“R. BETHELL.”

In confirmation of this opinion, it may be observed, that the word “cemetery” is never used in either of the Burial Acts in any other than this extended sense. It may also be remarked, that the words “in any cemetery established under the authority of any act of parliament,” were substituted in the 5th section of 16 & 17 Vict. c. 134, for the words “in any of the cemeteries mentioned in the Schedule (B.) to this act,” in the 7th section of 15 & 16 Vict. c. 85; these sections being in all other respects identical, whilst the cemeteries in Schedule (B.) are all of them such as would fall under the description of the law officers. If this view therefore be correct, it follows, that no mere burial ground or churchyard is exempted by this section from the operation of the statute.

yard, or burial place, or elsewhere within the parts to which such order extends, or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this act or in such order excepted; and every person who shall, after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanor (*d*).—16 & 17 Vict. c. 134, s. 3.

If any person, after the time mentioned in any order in council under the said acts or any of them, or this act, for the discontinuance of burials, shall knowingly and wilfully bury any body or in anywise act or assist in the burial of any body in any church, chapel, churchyard, burial ground, or place of burial, or (as the case may be) within the limits in which burials have by such orders been ordered to be discontinued, in violation of the provisions of any such order, every person so offending shall, upon summary conviction before two justices of the peace, forfeit a sum not exceeding ten pounds (*e*).—18 & 19 Vict. c. 128, s. 2.

(*d*) This term is applied to offences for which no particular name has been provided by law, and may be punished by fine and imprisonment. Any crime less than a felony is called a misdemeanor.

(*e*) It will be observed, that the misdemeanor imposed by 16 & 17 Vict. c. 134, s. 3, *ubi supra*, is not repealed by this section, although a specific penalty on summary process is given. It is however presumed, that though there may be a choice of punishments, both would not be enforced. With regard to this last-mentioned penalty, as the act does not provide the means for its recovery, the proceedings will of course be regulated by the provisions of the Administration of Justice (No. 2) Act (11 & 12 Vict. c. 43), which consolidates the practice with respect to

Provided always, that, notwithstanding any such order in council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this act, it shall be lawful for one of her Majesty's principal secretaries of state, from time

summary convictions before justices. According to this statute in all cases where information laid, a summons may be issued, and no objection shall be taken for want of form (s. 1). If disobeyed, warrant may issue (s. 2). Aiders or abettors liable to same penalties (s. 5). Attendance of witnesses may be compelled, who, on refusal to be examined, may be imprisoned not exceeding seven days (s. 7). Costs may be awarded to either complainant or defendant, recoverable by distress, and in default, imprisonment may follow, not exceeding one month, with or without hard labour (s. 18). On conviction, penalties may be levied by distress (s. 19), and, in default of sufficient distress, defendant may be imprisoned for any term not exceeding three months (s. 22). Information may be laid before one justice, who may thereupon summon the offender to appear before two justices—compel attendance of witnesses, and do all other necessary acts preliminary to the hearing, before two justices present and acting together, and after the hearing, one justice may issue all warrants of distress or commitment thereon, though he be not one of the justices who determined the case (s. 29). Sums recovered to be paid to the treasurer of the county, &c. for which justices shall have acted (s. 31). Metropolitan police magistrate or alderman of London may act alone (ss. 33, 34).

While on the subject of penalties, it may be well to call attention to the 58 Geo. 3, c. 45, s. 80, which imposes a penalty of 50*l.* on any person ordering or causing the making of any grave (vaults of a certain description excepted) within twenty feet of the external walls of any church erected under the provisions of that act. This penalty is recoverable before any two justices, by distress and sale, one-half to be paid to the informer, and the other to the use of the poor.

to time, on application (*f*) being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such secretary of state may think fit, but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this act had not been passed.—16 & 17 Vict. c. 134, s. 4.

Where by any such order in council as aforesaid it is ordered that no new burial ground shall be opened in any city or town, or within any limits therein mentioned, without the previous approval of one of her Majesty's principal secretaries of state, no new burial ground or cemetery (parochial or non-parochial) shall be provided and used in such city or town, or within such limits, without such previous approval (*g*).—16 & 17 Vict. c. 134, s. 6.

(*f*) Such applications should not be deferred until a death has taken place, as then there can be no sufficient time to inquire into the circumstances. The best time is immediately after notice of the proposed order has been posted.

(*g*) When any new site has been selected, an ordinary letter stating the fact, and requesting approval of the same, should be addressed to the Home Secretary. With regard to sites for churches and the enlargement of burial grounds, it may be remarked that the 56 Geo. 3, c. 141, enables ecclesiastical corporate bodies, under certain circumstances, to alienate lands for these purposes. By the 59 Geo. 3, c. 134, s. 36, all parishes re-

APPOINTMENT OF BURIAL BOARDS.

Upon the requisition in writing of ten or more ratepayers of any parish in which the place or places of burial shall appear to such ratepayers insufficient or dangerous to health (and whether any order in council in relation to any burial ground in such parish has or has not been made), the churchwardens or other persons to whom it belongs to convene meetings of the vestry (*h*) of such parish shall con-

quired by the commissioners shall furnish lands for enlarging or making additional churchyards as the commissioners shall deem necessary, in the manner therein set forth: and under the 3 Geo. 4, c. 72, s. 26, the commissioners may authorize parishes to purchase additional burial grounds:—but the power to make a rate for the purpose, under these acts, appears doubtful (see *Whitwick Churchwardens v. Stenson*, 18 J. P. 711); and these powers, for the provisions of burial grounds, are practically superseded by the recent acts embracing the whole subject of burial accommodation.

(*h*) A vestry, so called from the room in which it is usually held, is the assembly of the parish met in any convenient place for the dispatch of business (Shaw's Par. L. c. 17). By 13 & 14 Vict. c. 57, powers are given for providing rooms distinct from the church for holding vestry meetings and appointing vestry clerks. Vestry meetings are convened by notice in writing, stating the time and place of holding the same and the special purpose thereof, signed by a churchwarden, the incumbent, curate or an overseer of the parish, and affixed on or near to the principal door of each church or chapel in the parish previously to the commencement of divine service (58 Geo. 3, c. 69, s. 1, amended by 1 Vict. c. 45, ss. 1, 2, 3). The incumbent of the parish presides by right, if present; if absent, a chairman may be elected by the meeting, who shall have a casting vote (58 Geo. 3, c. 69, s. 2). Every inhabitant or person occupying land within the parish rated to the poor at any amount under 50*l.* is entitled to one vote, and all persons rated at 50*l.* or upwards are entitled to a vote for every 25*l.* value. No person, however, shall be entitled to more than six votes. Joint property may be represented by one of the owners, if but one present, in respect of the whole of the joint charge (*Ibid.* s. 3, and 59 Geo. 3, c. 85, s. 1). New inhabitants may vote in respect of property for which they

vene a meeting of the vestry, for the special purpose of determining whether a burial ground shall be provided under this act for the parish (i); and public notice of such vestry meeting, and the place and hour of holding the same, and the special purpose thereof, shall be given in the usual manner in which notices of the meetings of the vestry are given, at least seven

are liable to be rated (58 Geo. 3, c. 69, s. 4); but no person is entitled to vote who shall not have paid the last poor rate actually charged upon him (Ibid. s. 5, explained by 59 Geo. 3, c. 85, s. 3), if such rate shall have been made or become due three calendar months or more immediately preceding such vestry meeting (16 & 17 Vict. c. 65, s. 1). A clerk or agent may vote for a corporation or company (59 Geo. 3, c. 85, s. 2). The votes of parishioners in vestry are to be taken by show of hands or by poll. A poll is demandable as of right, and, if demanded, should, in the absence of other business, be taken immediately; but if, from the number present, time does not allow of this, the chairman may, on his own authority, adjourn the meeting for the purpose, so as to give all persons entitled a reasonable opportunity of voting (*R. v. D'Oyley*, 4 P. & D. 58; 12 Ad. & Ell. 139). And where due notice has been given that, in the event of a poll being demanded, the meeting will be adjourned to another building to take the same, the chairman may adjourn for the purpose (*Baker v. Wood*, 1 Curteis, 507; *R. v. Archdeacon of Chester*, 1 Ad. & Ell. 342), but he cannot adjourn against the wishes of the majority, no such notice having been given, so as to disturb the regular order of the proceedings; the general right of adjournment being in the meeting (*Stoughton v. Reynolds*, 2 Stra. 1045). If an amendment be carried by show of hands, and lost on a poll, the original motion is not therefore carried, but should be also put to the meeting, and a show of hands taken upon it, when the poll may be taken on each question, for and against, at the same time (*Elt v. The Burial Board of Islington*, 1 Kay, 449). The chairman shall sign the proceedings. On refusal to grant a poll, he may be compelled by mandamus. The statutes for regulating vestries have not taken away the common law right of voting by a poll (*R. v. St. Mary, Newington*, 17 L. J., N. S., 220; *Campbell v. Maund*, 5 Ad. & Ell. 865). As to select vestries, see 59 Geo. 3, c. 12, and 1 & 2 Will. 4, c. 60; and see 15 & 16 Vict. c. 85, s. 52, p. 23, *post*, at to the meaning of the term "vestry" under the Burial acts.

(i) See Appendix, Form 1, p. 126.

days before holding such vestry meeting (*k*); and if it be resolved by the vestry that a burial ground shall be provided under this act for the parish (*l*), a copy of such resolution, extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of her Majesty's principal secretaries of state (*m*). —15 & 16 Vict. c. 85, s. 10.

The churchwardens or other persons to whom it belongs to convene meetings of the vestry of any parish in which no burial board has been appointed, may at any time, at their discretion, without requisition of ratepayers for that purpose, convene a meeting of such vestry for the purpose of determining whether a burial ground shall be provided for the parish; and where any order in council has been made before the passing of this act for discontinuing burials (wholly or subject to any exception or qualification) in any burial ground of any parish for which no burial board has been appointed, or notice has been given of the intention of the secretary of state to make a representation to her Majesty in council that burials should be discontinued (wholly or subject to any exception or qualification) in any burial ground of any parish, the churchwardens or other persons to whom it belongs to convene meetings of vestry shall, with all convenient speed, after the passing of this act, convene a meeting of the vestry for the purpose aforesaid; and where at any time hereafter notice is given of the intention of the secretary of

(*k*) See Appendix, Form 2, p. 126.

(*l*) See Appendix, Form 3, p. 127.

(*m*) See Appendix, Form 4, p. 128.

state to make a like representation in relation to a burial ground of any parish, such churchwardens or other persons as aforesaid shall forthwith convene a meeting of the vestry for the purpose aforesaid; and all the provisions of the said acts as amended by this act relating to and consequent upon vestry meetings convened upon such requisition as provided by the first recited act shall be applicable to vestry meetings convened under this enactment.—18 & 19 Vict. c. 128, s. 3.

In case of such resolution as aforesaid the vestry shall appoint not less than three nor more than nine persons, being ratepayers of the parish, to be the burial board of such parish(*n*), of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly at such time as shall be from time to time fixed by the vestry, but shall be eligible for immediate reappointment: provided always, that the incumbent of the parish shall be eligible to be appointed and reappointed from time to time as one of the members of the said board, although not a ratepayer of the parish (*o*); provided also, that any member of the board may at any time resign his office, on giving notice in writing to the churchwardens or persons to whom it belongs to convene meetings of the vestry.—15 & 16 Vict. c. 85, s. 11.

(*n*) In boroughs the town council may become the burial board, see 17 & 18 Vict. c. 87, Appendix, p. 110.

(*o*) It will be observed that the incumbent is not *ex officio* a member of the board, but that no further qualification is required for his election.

The vestries of any parishes which shall have respectively resolved to provide burial grounds under this act may concur in providing one burial ground for the common use of such parishes, in such manner, not inconsistent with the provisions of this act, as they shall mutually agree, and may agree as to the proportions in which the expenses of such burial ground shall be borne by such parishes (o), and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the burial boards appointed for such parishes respectively shall, for the purpose of providing and managing such one burial ground, and taking and holding land for the same, act as one joint burial board for all such parishes, and may have a joint office, clerk, and officers, and all the provisions of this act shall apply to such joint burial board accordingly; and the accounts and vouchers of such board shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such board shall be paid to the overseers of such parishes respectively

(o) In some cases, where several parishes have united to appoint a joint burial board, difficulties have occurred in consequence of the refusal of some of the vestries to sanction the expenditure, plans or contracts of the joint board; and the question has arisen as to the power of subsequently dissolving such joint board. The difficulty, however, may now be overcome by 18 & 19 Vict. c. 128, s. 6, under which the secretary of state may dispense with the approval of the vestry, on proper representation, and empower the burial board to proceed without such approval.

in the same proportions as those in which such parishes shall be liable to such expenses.—15 & 16 Vict. c. 85, s. 23.

Where a parish or place has been united with any other parish or place, parishes or places, for all or any ecclesiastical purposes, or where two or more parishes or places have heretofore had a church or a burial ground for their joint use, or where the inhabitants of several parishes or places have been accustomed to meet in one vestry for purposes common to such several parishes or places, it shall be lawful for the vestry or any meeting in the nature of a vestry of such several parishes or places in any of the cases aforesaid, and whether any one or more of such parishes or places do or do not separately maintain its own poor, to appoint a burial board, and from time to time to supply vacancies therein, and to exercise the same powers of authorization, approval, and sanction in relation to such burial board, and such other powers as under the said acts and this act are vested in the vestry of a parish or place separately maintaining its own poor; and the burial board so appointed shall have all the powers for providing a burial ground for the common use of such several parishes or places, and for facilitating interments, and otherwise, as if such several parishes or places had been a parish separately maintaining its own poor; and the expenses of the burial board appointed under this provision shall be borne by the several parishes or places for which such board is appointed, and shall be apportioned among them by such burial board in proportion to the value of the property in such several parishes or places

as rated to the relief of the poor; and the sums required by the burial board in respect of the portion of such expenses to be borne by any such parish or place shall be paid out of the rates for the relief of the poor in such parish or place, in like manner as if such burial board had been appointed for such parish or place alone.—18 & 19 Vict. c. 128, s. 11.

The vestry or meeting in the nature of a vestry of any parish, township, or other district not separately maintaining its own poor, which has heretofore had a separate burial ground, may appoint a burial board, and from time to time supply vacancies therein, and may exercise the same powers of authorization, approval, and sanction in relation to such burial board, and such other powers as under the said acts and this act are vested in the vestry of a parish separately maintaining its own poor; and the burial board so appointed shall have all the powers for providing a burial ground and otherwise as if such parish, township, or other district had been a parish separately maintaining its own poor.—18 & 19 Vict. c. 128, s. 12.

Where any district (whether a parish or township or other subdivision) not separately maintaining its own poor, but forming part of a parish maintaining its own poor, or of an incorporation or other union maintaining the poor of the places comprised therein, by means of a common rate, shall have a burial board, or shall form part of a place or union of places not co-extensive with the area rated for the relief of the poor, and having one burial board, it shall be lawful for such respective burial board to issue their certificate to the

overseers of such parish, or the overseers or other persons authorized to make and collect or cause to be collected such common rate (as the case may be), for payment of the sums required for the expenses of such burial board, or, where such district not separately maintaining its own poor forms part only of the area of the burial board, of the sums required in respect of the portion of such expenses to be borne by such district, in like manner as if such district had been a parish separately maintaining its own poor, and such overseers or persons authorized as aforesaid had been the overseers thereof; and such overseers or persons shall pay such sums as shall be required by such certificate, according to the directions of such burial board, and shall levy such sums as may be required for such payments to the burial board by an addition to the parish rate or common rate, so far as the same affects the district in respect of which such payments are required, or by separate rates to be made from time to time on such district; and for levying such additions or separate rates as aforesaid such overseers or other persons shall have the powers, remedies, and privileges, and proceed in the same manner, as in the case of the rates for the relief of the poor; provided that any such rates may (notwithstanding any restriction in relation to the parish rate or common rate) be made and levied at such times as may be necessary to provide for the payments aforesaid.—18 & 19 Vict. c. 128, s. 13.

“Churchwardens” shall mean also chapelwardens, or other persons discharging the duties of churchwardens: “vestry” shall mean the inhabitants of the

parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select or other vestry elected under an act of the fifty-ninth year of King George the Third, chapter twelve, "to amend the Laws for the Relief of the Poor," or elected under an act passed in the second year of King William the Fourth, chapter sixty, "for the better Regulation of Vestries, and for the appointment of Auditors of Accounts, in certain Parishes of England and Wales," or elected under the provisions of any local act of parliament for the government of any parish by vestries, in which parishes it shall mean such select or other vestry (*o*).—15 & 16 Vict. c. 85 (part of), s. 52.

Nothing in this act contained shall in anywise abridge, lessen, or defeat any power, right, or privilege of any local board of health being the burial board of a borough created or to exist under or by virtue of any local act of parliament (*p*).—18 & 19 Vict. c. 128, c. 19.

(*o*) Vide *ante*, p. 16, note.

(*p*) Local boards of health may provide reception houses for the dead, and make bye-laws with respect to the management of the same, and, on application, make arrangements for interment of any corpse received therein (11 & 12 Vict. c. 63, s. 81). Interment in any burial ground within the district of any local board, if dangerous to health, may, on certificate of the general board, be prohibited under penalty of 20*l*. (s. 82); and no interment shall take place under any new place of worship in any district to which the Public Health Act has been applied, nor no new burial ground not previously authorized by parliament formed therein, without consent of the general board, under penalty of 50*l*., recoverable by any person in action of debt (s. 83). But these provisions are practically superseded by the 18 & 19 Vict. c. 128, s. 20, so far as relates to the local boards therein mentioned.

Any local board of health acting as or created a board under or by virtue of the powers of any local act of parliament shall and may have and exercise all the powers, rights, and privileges which by this act or by the secondly recited act are or can or may be had, enjoyed, or exercised by any burial board therein named.—18 & 19 Vict. c. 128, s. 20 (*p*).

Any vacancies in the board may be filled up by the vestry when and as the vestry shall think fit.—15 & 16 Vict. c. 85, s. 12.

Every vacancy in any burial board shall be filled up by the vestry appointing the same within one month after such vacancy shall have happened, and immediately on the occurrence thereof the same shall be notified by the burial board to the churchwardens or other persons to whom it belongs to convene meetings of the vestry; and in case any such vestry shall neglect to fill up any such vacancy, the vacancy may be filled up by the burial board at any meeting thereof; and every person to be appointed to supply any such vacancy shall be a ratepayer of the parish for which the burial board is appointed; and every such board may act for any purpose, notwithstanding any vacancies therein.—18 & 19 Vict. c. 128, s. 4.

PROCEEDINGS OF BURIAL BOARDS.

The board shall meet (*q*) at their office, or some other convenient place previously publicly notified, and

(*p*) Town councils in boroughs may become burial boards. See Appendix, 17 & 18 Vict. c. 87, p. 110.

(*q*) Originally "at least once in every month," repealed by 18 & 19 Vict. c. 128, s. 5, p. 119.

the said board may meet at such other time as at any previous meetings shall be determined upon; and it shall be at all times competent for any two members of the board, by writing under their hands, to summon, with at least forty-eight hours' notice, the board for any special purpose mentioned in such writing (*r*), and to meet at such time as shall be appointed therein.—15 & 16 Vict. c. 85, s. 13.

At all meetings of the board any number not less than three members of such board shall be a sufficient number for transacting business, and for exercising all the powers of the board.—15 & 16 Vict. c. 85, s. 14.

The board shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for the business of the board and for the purposes of their burial ground, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business.—15 & 16 Vict. c. 85, s. 15.

Entries of all proceedings of the board, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board, and shall be signed by the members present or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board having been duly convened or held, or of the presence at any such meeting of the persons named

(*r*) See Appendix, Form 5, p. 128.

in any such entry as being present thereat, or of such persons being members of the board, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and the board shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money are paid and such liabilities incurred.—15 & 16 Vict. c. 85, s. 16.

All such books shall at all reasonable times be open to the examination of every member of such board, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the members of such board, or any of them, or any of the officers or servants of such board having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before any justice of the peace, forfeit any sum not exceeding five pounds (*s*). —15 & 16 Vict. c. 85, s. 17.

The vestry shall yearly appoint two persons, not being members of the board, to be auditors of the

(*s*) See note, page 14.

accounts of the board, and at such time in the month of *March* in every year as the vestry shall appoint the board shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.—15 & 16 Vict. c. 85, s. 18.

The expenses incurred or to be incurred by the burial board of any parish in carrying this act into execution shall be chargeable upon and paid out of the rates for the relief of the poor of such parish, the expenses to be so incurred for or on account of any parish in providing and laying out a burial ground under this act and building the necessary chapel or chapels thereon not to exceed such sum as the vestry shall authorize to be expended for such purpose; and the overseers or other officers authorized to make and levy rates for the relief of the poor in any parish shall, upon receipt of a certificate under the hands (*s*) of such number of members of the burial board as are authorized to exercise the powers of the board of the sums required from time to time for defraying any such expenses as aforesaid, pay such sums out of the rates for the relief of the poor as the board shall direct.—15 & 16 Vict. c. 85, s. 19.

“Overseers” shall mean also any persons authorized and required to make and collect, or cause to be collected, the rate for the relief of the poor of the parish, and acting instead of overseers of the poor.—15 & 16 Vict. c. 85 (part of), s. 52.

(*s*) See Appendix, Form 6, p. 128.

If the vestry of any parish shall refuse or neglect to authorize the expenditure of such sums as the burial board of such parish shall have declared to be necessary for providing and laying out a burial ground, and building the necessary chapel or chapels therein, it shall be lawful for such burial board to represent such refusal or neglect to one of her Majesty's principal secretaries of state; and in case it shall appear to the secretary of state, after inquiry into the circumstances of the case, that the burial board are unable to provide such burial ground, or to proceed effectually in the execution of their duties, by reason of such refusal or neglect, it shall be lawful for such secretary of state, by warrant under his hand, to authorize such burial board, without further authority, sanction, or approval of or by such vestry, to expend such sums of money for providing and laying out a burial ground, and building the necessary chapel or chapels thereon, and to borrow and charge such money for all or any of such purposes, and to enter into and make such contracts and purchases, and do such other acts as under the sections nineteen, twenty, twenty-six, and forty-two of the said act of the fifteenth and sixteenth years of her Majesty might have been expended, borrowed, and charged, entered into, made, and done with the authority, approval, and sanction of such vestry, subject, nevertheless, to such limitation of amount or other limitation or restriction as such secretary of state may by his warrant prescribe; and all acts done in pursuance of such warrant shall be as valid and effectual as if the authority, approval, and sanction of such vestry

had in every case been obtained.—18 & 19 Vict. c. 128, s. 6.

Provided always, that it shall be lawful for the board, with the sanction of the vestry and the approval of the commissioners of her Majesty's treasury, to borrow any money required for providing and laying out any burial ground under this act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor rates of the parish with the payment of such money and interest thereon (*t*); provided that there shall be paid in every year, in addition to the interest of the money borrowed and unpaid, not less than one-twentieth of the principal sum borrowed, until the whole is discharged (*u*).—15 & 16 Vict. c. 85, s. 20.

The commissioners for carrying into execution an act of the session holden in the fourteenth and fifteenth years of her Majesty, chapter twenty-three, "to authorize for a further Period the Advance of Money out of the Consolidated Fund to a limited Amount for carrying on Public Works and Fisheries and Employment of the Poor," and any act or acts amending or continuing the same, may from time to time make to the burial board of any parish for the purposes of this act any loan under the provisions of the recited act, or the several acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish (*x*).—15 & 16 Vict. c. 85, s. 21.

(*t*) See Appendix, Form 7, p. 129.

(*u*) The repayments will not be by equal annual instalments, as the interest will diminish yearly.

(*x*) By the 14 & 15 Vict. c. 23, continuing powers conferred

If any burial board under the said act of the last session of parliament, or the council of any borough acting under this act, can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, they may, if they think fit, so borrow accordingly in order to pay off and discharge any security or securities bearing a higher rate of interest, and to secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other monies authorized to be borrowed by such burial board or council under the said act of the last session or this act.—17 & 18 Vict. c. 87, s. 4.

If at the time appointed by any mortgage for payment of the principal money secured thereby any such burial board or council as aforesaid are unable to pay off the same, they may, if they think fit, borrow such sum of money as may be necessary for the purpose of paying off all or any part of such principal money, and secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other monies authorized to be borrowed by such burial board or council under the said act of the last session or this act.—17 & 18 Vict. c. 87, s. 5.

The money raised for defraying such expenses, and by many previous statutes, a sum not exceeding 360,000*l.* per annum for five years is placed at the disposal of the Commissioners, to be charged upon the Consolidated Fund, for the purpose of making such advances for public works, and for such periods as they may from time to time be authorized to make, bearing interest at 5*l.* per cent. (7 Geo. 4, c. 30, s. 2); and on application at the Public Works Loan Office, South Sea House, Threadneedle-street, any burial board may obtain a loan on the terms and security authorized by 15 & 16 Vict. c. 85, and prescribed by the commissioners.

the income arising from the burial ground provided for the parish, except fees payable to the incumbent, clerk, and sexton of the parish, and the other fees herein directed to be otherwise paid, shall be applied by the board in or towards defraying the expenses of such board under this act; and whenever, after repayment of all monies borrowed for the purposes of this act in or for any parish and the interest thereof, and after satisfying all the liabilities of the board with reference to the execution of this act in or for the parish, and providing such a balance as shall be deemed by the board sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the board, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish (*y*).—15 & 16 Vict. c. 85, s. 22.

“Incumbent” and “minister” shall, in respect of any fee made payable to an incumbent or minister under this act, mean the clergyman who would have been entitled to the fee had the body been buried in the churchyard or burial ground of the parish from which

(*y*) Although the payment of any surplus profits in aid of the poor rate may at first sight seem to render a low charge for funerals undesirable, it may be remarked, with reference to the lowest class at any rate, that the higher the charge the more numerous will be the applications for parochial assistance, whilst it is by no means prudent to encourage such applications, because persons who have once received parochial relief in any shape will in all probability come again on other grounds. It has been said of individuals of this class,—“Once a pauper, always a pauper.” It would seem therefore desirable that burials for the poor should be undertaken generally at a loss, rather than that part of the charge should be defrayed under the head of parochial relief in more numerous instances.

it came, or in the burial ground of the ecclesiastical district in case such district has a burial ground at the passing of this act, and if any difference shall arise between two or more persons severally claiming to be the incumbent or minister under this provision, such difference shall be determined by the bishop of the diocese.—15 & 16 Vict. c. 85 (part of), s. 52.

For the more easy execution of the purposes of this act, the burial board of every parish appointed under this act shall be a body corporate, by the name of “The Burial Board for the Parish of _____, in the county of _____,” and by that name shall have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this act; and where the burial boards of two or more parishes act as and form one joint burial board for all such parishes for the purposes aforesaid, such joint board shall for such purposes only be a body corporate by the name of “The Burial Board for the Parishes of _____ and _____, in the county of _____,” and by that name shall have perpetual succession and a common seal, and shall sue and be sued and have power and authority as aforesaid to take, purchase, and hold land for the purposes of this act.—15 & 16 Vict. c. 85, s. 24.

PROVISION OF NEW GROUNDS.

Every burial board shall, with all convenient speed, proceed to provide a burial ground for the parish or parishes for which they are appointed to act, and to make

arrangements for facilitating interments therein (*y*); and in providing such burial ground the board shall have reference to the convenience of access thereto from the parish or parishes for which the same is provided; and any such burial ground may be provided either within or without the limits of the parish, or all or any of the parishes, for which the same is provided; but no ground not already used as or appropriated for a cemetery shall be appropriated as a burial ground, or as an addition to a burial ground, under this act, nearer than one (*z*) hundred yards to any dwelling-house, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.—15 & 16 Vict. c. 85, s. 25.

Provided always, that in all cases in which any burial board shall provide a new burial ground under the said act of the last session of parliament or under this act, that new burial ground shall be divided into consecrated and unconsecrated parts, in such proportions, and the unconsecrated part thereof shall be allotted in such manner and in such portions, as may be sanctioned by one of her Majesty's principal secretaries of state.—16 & 17 Vict. c. 134 (part of), s. 7.

If the ratepayers assembled at any vestry duly convened under the provisions of this act shall, in pursuance of public notice duly given in that behalf, resolve unanimously that any new burial ground to be provided for their parish, under the provisions of this act, shall be held and used in like manner and subject to

(*y*) See Appendix, Instructions for providing New Grounds, p. 139.

(*z*) Originally "two;" amended by 17 & 18 Vict. c. 87, s. 12, p. 114; 18 & 19 Vict. c. 128, s. 9, p. 120.

the same laws and regulations in all respects as the existing burial ground or churchyard of the said parish, the land for such new burial ground may be conveyed and settled in accordance with such resolution, anything in this or the said recited acts notwithstanding, and in such case it shall not be necessary to set apart to remain unconsecrated any portion of the land so conveyed and settled: provided always, that if at any time within ten years thereafter the vestry, duly convened under the provisions of this act in pursuance of public notice duly given in that behalf, should determine that an unconsecrated burial ground should be also provided for such parish, all the powers and provisions of the said recited acts and this act may be put in force and shall be applicable for providing such unconsecrated burial ground separately, in like manner as they might have been put in force and been applicable for providing an ordinary burial ground for such parish (*a*).—18 & 19 Vict. c. 128, s. 10.

PURCHASE AND SETTLEMENT OF LANDS.

For the providing such burial ground it shall be lawful for the burial board, with the approval of the vestry or vestries of the parish or respective parishes,

(*a*) Under this section it is apprehended, that where the rate-payers working harmoniously together prefer, at some increase of expense, to provide grounds entirely distinct for Churchmen and Dissenters, they may do so; but the intention evidently was to enable small parishes, in which there happen to be no Dissenters who make a point of unconsecrated ground being provided, simply to have a second churchyard, or an addition made to the existing churchyard under the powers of the act, without incurring further expenses.

to contract for and purchase any lands for the purpose of forming a burial ground (*b*), or for making additions to any burial ground to be formed or purchased under this act, as such board may think fit, or to purchase from any company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to the rights in vaults and graves, and other subsisting rights, which may have been previously granted therein: provided always, that it shall be lawful for such board, in lieu of providing any such burial ground, to contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, and either in any allotted part of such cemetery or cemeteries or otherwise, and upon such terms as the burial board may think fit, of the bodies of persons who would have had rights of interment in the burial grounds of such parish or respective parishes.—15 & 16 Vict. c. 85, s. 26.

“The Lands Clauses Consolidation Act, 1845 (*c*),”

(*b*) See Appendix, Form 8, p. 130.

(*c*) The Lands Clauses Consolidation Act here referred to is the 8 & 9 Vict. c. 18, which may be applied to all undertakings authorized by any “special act” thereafter to be passed, so that the two may be construed together as forming one act (s. 1). The chief provisions incorporated are as follows:—The promoters of the undertaking (*i. e.* the burial board, *vide supra*) may purchase land by agreement (s. 6); parties under any disability being thereby enabled to convey (s. 7), to enfranchise or release lands from incumbrances, or apportion incumbrances (s. 8); the purchase-money in such cases to be paid into the Bank (s. 9). Lands in fee simple may be sold on chief rents, but if on any other tenure, consideration money to be in a gross sum (s. 10). The rent to be charged on the rates (s. 11). Municipal corporations may not convey lands without the approval of the Treasury (s. 15). Purchase-money payable to parties under disability, amounting to 200*l.* and upwards, to be paid into the Bank in the name of the accountant-general, to be applied as the court shall direct

except the provisions of that act "with respect to the purchase and taking of lands otherwise than by agree-

(s. 69). In the meantime to be invested (s. 70). If under 200*l.* and exceeding 20*l.*, it may be paid as aforesaid, or to two trustees, to be applied in like manner (s. 71). Sums not exceeding 20*l.* to be paid to parties entitled to rents. All sums exceeding 20*l.*, payable under contract with persons not absolutely entitled, to be paid into the Bank (s. 73); to be applied under direction of the court (s. 74). On payment of the money into the Bank after agreement, owners shall convey, or, in default, a deed-poll may be executed by the burial board (s. 75); and purchase-money deposited (s. 76); and on receipt from the cashier of the Bank and execution of the deed-poll, lands shall vest absolutely, and possession may be taken by the burial board (s. 77). Money to be invested as the court may direct (s. 78); and dividends paid to parties in possession at the time of the purchase (s. 79). Costs (except those arising from neglect of parties entitled) to be paid by the burial board (s. 80). Form of conveyance prescribed (s. 81). Costs of same to be borne by burial board (s. 82); to be taxed in case of disagreement (s. 83). The purchase-money is to be paid previous to right of entry, except to survey soil, set out line of works, &c., on giving not less than three or more than fourteen days' notice, and making compensation for damage (s. 84); and except also on deposit by way of security and giving bond (s. 85). Cashier to give receipt (s. 86); and deposit to be applied under direction of the court (s. 87). In the absence of the accountant-general, deposit may be paid to cashier of the Bank, to be subsequently placed to his account (s. 88). Burial boards entering lands without consent prior to payment of purchase-money shall forfeit 10*l.* to the party in possession over and above damage, to be recovered before two justices, and 25*l.* per day for continuing in unlawful possession after conviction, recoverable with costs in any superior court (s. 89). Burial board may be put in possession by the sheriff on becoming entitled to enter (s. 91). Conveyances of copyhold land to be enrolled (s. 95) may be enfranchised (s. 96) by the lord (s. 97). Copyhold rents may be apportioned by two justices (s. 98). Commonable rights may be compensated (s. 99), and lands conveyed by the lord (s. 100). Commoners to determine their rights by agreement (s. 101). Meeting convened to treat (s. 102) may appoint a committee (s. 103) to agree with the burial board (s. 104). In default of such meeting or appointment of committee, surveyor appointed by two justices to determine such compensation (s. 106). Upon payment or tender of which lands to vest (s. 107). Power to redeem mortgages (ss. 108 to 114), to release rent-charges (ss. 115 to 118), to apportion leases (ss. 119 to 122). The principal clauses above referred to will be found at length in the Appendix, p. 64 *et seq.*

ment," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to lands acquired by the promoters of the undertaking under the provisions of 'The Lands Clauses Consolidation Act, 1845,' or the special act, or any act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special act by all parties interested," shall be incorporated with this act; and for the purposes of this act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such burial board (*d*).—15 & 16 Vict. c. 85, s. 27.

It shall be lawful for any such board, with the approval of the vestry, to sell and dispose of any lands purchased by them under this act, or any part thereof, in which no interment shall have taken place, and which it may appear to the board may be properly sold or disposed of; and for completing and carrying any such sale into effect such board may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct; and such conveyance shall be under the hands of at least two of the members of the board, and under the seal of the board; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the hands of two of the members of the board shall be a

(*d*) See Appendix, Forms 9 and 10, pp. 130—1.

sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received; and the money to arise from such sale shall be applied to such of the purposes of this act as the board shall think fit.—15 & 16 Vict. c. 85, s. 28.

It shall be lawful for any burial board, with the sanction of one of her Majesty's principal secretaries of state, and subject to regulations approved of by him, to let any land purchased by and vested in them under this act or any of the acts hereinbefore recited, and which has not been consecrated, and in which no body has been at any time interred, and which is not for the time being required for the purposes of a burial ground, in such manner and on such terms as such board may see fit, but so nevertheless that power shall be reserved to such board to resume any such land which may be required for the purposes aforesaid, upon giving six months notice.—18 & 19 Vict. c. 128, s. 17.

Provided always, that any burial board under this act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the poor law board, may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish, or for any specific charity: provided always, that where any land so taken and appropriated shall be subject to any charitable use such lands shall be taken on such conditions only as the Court of Chan-

cery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.—15 & 16 Vict. c. 85, s. 29.

CHAPELS AND LAYING OUT GROUNDS.

It shall be lawful for any burial board to lay out and embellish any burial ground provided by such board in such manner as may be fitting and proper, and to build on any land to be purchased or appropriated for a burial ground under this act, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the united Church of England and Ireland; and such burial ground may be consecrated by the bishop of the diocese, when the same shall appear to him to be in a fit and proper condition, for the purposes of interment according to the rites of the United Church (*e*): provided always, that in providing any

(*e*) The bishop of the diocese, being here constituted the judge of when the ground is in a fit and proper condition for the purposes of interment previous to consecration, may sometimes insist on such a conspicuous boundary as the burial board deem undesirable, disfiguring to the ground, and as maintaining an unnecessary distinction between Churchmen and Dissenters in the grave. In some instances it is known that a wall dividing the ground has been demanded; but it is apprehended that the intention has been to satisfy the presumed requirements of the consecration deed. In most cases a simple path has been deemed sufficient, and doubtless a boundary may be clearly defined by measurement, as in the case of an ordinary plot of land or estate, without the erection of any fence, which, of whatever constructed, must, in the nature of things, be more perishable than the land itself. Nevertheless, if the bishop insist on a continuous boundary visible above the ground, any invidious mark of distinction may be avoided by making both sides of the path uniform; as, for instance, a privet, holly, or other hedge on each side, or two low walls, with coping and vases for flowers placed at intervals, which, if unnecessary, would at least be ornamental. If a mere walled

burial ground such board shall set apart a portion thereof which shall not be so consecrated as aforesaid, and may build thereon a suitable chapel or chapels for the performance of funeral service(*f*).—15 & 16 Vict. c. 85, s. 30.

When any burial board shall by virtue of section thirty of the said act build on any burial ground provided by such board a chapel for the performance of the burial service according to the rites of the United Church of England and Ireland, they shall also build, on the portion of such ground set apart for burials otherwise than according to the rites of the said church, such chapel accommodation for the performance of burial service by persons not being members of the said church as may be approved of by one of her Majesty's secretaries of state.—16 & 17 Vict. c. 134 (part of), s. 7.

And whereas doubts have arisen whether in all cases in which any burial board shall build in any burial ground provided by such board a chapel for the burial service according to the rites of the United Church of England and Ireland, such burial board is not also bound by law to build a chapel or chapels upon the unconsecrated part of such burial ground for the performance of burial service for persons not being members of the said church: be it enacted, that in any

boundary be the *sine quâ non* without regard to its being visible, a rough stone division may be made, and afterwards banked up on each side, and planted with shrubs, or it may be sunk to form a haw-haw; and surely either of these expedients would be far preferable to any degree of ill feeling among fellow parishioners on such a subject.

(*f*) Vide *ante*, pp. 34, 35.

such case as aforesaid, where it shall appear to one of her Majesty's principal secretaries of state, upon the representation of a majority of the vestry of any parish, consisting of not less than three-fourths of the members of the same (*g*), that the building of a chapel upon the unconsecrated part of any such burial ground for the use of persons not being members of the said church is undesirable and unnecessary, it shall be lawful for the said secretary of state, if he shall think fit, to signify his opinion to that effect to the burial board of the parish, and the said burial board shall thereupon be relieved from all obligation to build the same (*h*): provided always, that such secretary of state shall not signify his opinion as aforesaid unless it be shown to his satisfaction that notice of the intention to propose to such vestry to make such representation was given in manner required by law for notices of vestry meetings, and of the special purposes thereof.—18 & 19 Vict. c. 128, s. 14.

(*g*) The representation should be made by letter to the Secretary of State, Home Office, Whitehall.

(*h*) From this and the previous clauses it will be seen that in every case in which a new burial ground is provided under these acts (excepting under sect. 10 of the 18 & 19 Vict. c. 128), a chapel *may* be built on the consecrated portion and another on the unconsecrated portion of the ground; but where an *episcopal* chapel is erected on the consecrated ground, it is imperative that another *shall* be also built on the unconsecrated ground, unless it be deemed unnecessary by three-fourths of the vestry, and by the secretary of state. There may be instances where neither are required by reason of the proximity of both Church and Dissenting chapels to the new ground. There are also cases where the church being close at hand, no episcopal chapel is needed; but it is desirable to build for the accommodation of Dissenters. In the third case, the church may be distant and the Dissenters' chapels near, or there may be no Dissenters in a small parish; therefore under the last act means are provided to enable the burial board to erect an episcopal chapel only.

In any case where the burial boards appointed under the said recited acts of the fifteenth and sixteenth and the sixteenth and seventeenth years of her Majesty, or either of them, for any two parishes, shall provide separate burial grounds for such parishes respectively (*i*), and such burial grounds shall adjoin each other, it shall be lawful for the said burial boards to concur in building, either on one of the said burial grounds or partly on one of such grounds and partly on the other, such chapels as are authorized to be built by the said acts, and that such chapels when erected shall be used in common by both of such parishes, and be deemed and taken to be the chapels of and belonging to each of such burial grounds respectively, in such manner, consistent with the provisions of the said acts or either of them, as the said burial boards shall mutually agree upon; and that the said burial boards may agree as to the proportions in which the expenses of erecting such chapel accommodation shall be borne by each of the said boards respectively; and the proportion for each of such parishes of such expenses shall be chargeable upon and paid in the same manner as the costs of providing burial grounds under the said acts; and where any burial board shall provide a burial ground, and cause chapels to be built thereon, pursuant to the said recited acts, it shall be lawful for such burial board, with the sanction of one of her Majesty's principal secretaries of state, to contract with any other burial board whose burial ground shall adjoin the one

(*i*) Vide *ante*, p. 33.

on which such chapels shall so have been built, for the use of such chapels, in such manner and on such terms as such respective burial boards shall mutually agree, and that during the existence of any such agreement such chapels shall be deemed and taken to be the chapels of and belonging to each of such burial grounds respectively.—18 & 19 Vict. c. 128, s. 16.

Any burial board may from time to time enter into any contract with any persons or companies for building any chapel or chapels as aforesaid, and inclosing, laying out, and embellishing any burial ground, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this act, which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of nonperformance (*g*); and all such contracts or true copies thereof, shall be entered in books to be kept for that purpose: provided always, that no contract above the value or sum of one hundred pounds shall be entered into by such burial board for the purposes of this act unless previous to the making thereof fourteen days notice shall be given in one or more of the public newspapers published in the county or counties in which the parish or respective parishes shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make

(*g*) See Appendix, Forms 11 and 12, pp. 131—5.

proposals for that purpose, to be offered to the burial board at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the burial board to contract with the person offering the lowest price.—15 & 16 Vict. c. 85, s. 31.

RIGHTS OF PARTIES—FEES.

From and after the consecration as aforesaid of any burial ground provided under this act, (except any portion thereof intended not to be so consecrated), or where all or any part of such burial ground, by reason of the same having been already consecrated, shall not require to be consecrated, then from and after such time as the bishop of the diocese shall appoint, such burial ground shall be deemed the burial ground of the parish for which the same is provided, and where the same is provided for two or more parishes such burial ground shall be in law as if such parishes were one parish, and as if such burial ground were the burial ground of such one parish; and every incumbent or minister of the parish or of each of the parishes (as the case may be) for which such burial ground is provided shall, by himself and his curate, or such duly qualified persons as such incumbent or minister may authorize, perform the duties and have the same rights and authorities for the performance of religious service in the burial in such burial ground, or in the consecrated portion thereof, of the remains of parishioners or inhabitants of the parish of which he is such incumbent or minister, and shall be entitled to receive the same fees in respect of such burials which he has previously

enjoyed and received (*h*); and the clerk and sexton of such parish or of each of such parishes shall (when necessary) perform and exercise the same duties and functions in respect of the burial of the remains of parishioners or inhabitants of the parish of which he is clerk or sexton in such burial ground or the consecrated portion thereof, and shall be entitled to receive the same fees on such burials, as he has previously performed and exercised and received, as if such burial ground were the burial ground of the respective parish of such incumbent or minister, clerk and sexton respectively (*i*); and the parishioners and inhabitants of such parish, or of each of such parishes, shall have the same rights of sepulture in such burial ground as they respectively would have had in the burial ground or burial grounds in and for their respective parish, subject nevertheless to the provisions herein contained (*j*).—15 & 16 Vict. c. 85, s. 32.

(*h*) Parochial mortuary fees are usually such as have become established by custom. A fee is not due to a parson for the burial of a parishioner, which does not take place within his parish (1 Lee's Ec. Ca. 395). By 59 Geo. 3, c. 134, s. 11, the commissioners are empowered, with consent of vestry and of the bishop, to fix any table of fees for any parish.

(*i*) See Appendix, Form 13, p. 135.

(*j*) By the common law the churchyard is the common burial place for all persons dying within the parish not within certain exclusions of the ecclesiastical laws; and by Canon 68, no minister shall refuse or delay to bury any corpse, convenient warning being given him thereof (*R. v. Stewart*, 4 P. & D. 889; 12 Ad. & Ell. 773, *S. C.*). The rubric, confirmed by 13 & 14 Car. 2, c. 4, forbids the use of the customary office on unbaptized persons; but a clergyman cannot refuse to bury the child of a Dissenter (*Kemp v. Wickes*, 3 Phil. 264); nor the body of a person baptized with water by a layman, and in the name of the Holy Trinity (*Escott v. Martin*, 6 Jur. 765). A clergyman having due notice of such a death, and refusing to perform the office, was suspended

Any burial board, under such restrictions and conditions as they think proper, may sell the exclusive right of burial (*k*), either in perpetuity or for a limited period, in any part of any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription in such burial ground, but there shall be payable to the incumbent or minister of the parish out of the fees or payments to be paid in respect of any rights acquired under this enactment in the consecrated part of such burial ground (in lieu of the fees or sums which he would have been entitled to on the grant of the like rights in the burial ground of his parish) such fees or sums as shall be settled and fixed by the vestry with the approval of the bishop of the diocese, or if no such fees or sums shall have been so settled then such fees as he would by law or custom have been entitled to on the grant of the like rights in the burial ground of his parish.—15 & 16 Vict. c. 85, s. 33.

Every burial board under this act shall and may three months (*Martin v. Escott*, 2 Curt. 692). Persons *felo de se* are excluded from Christian burial. A clergyman cannot be compelled to bury the corpse of any person in a particular vault or part of the churchyard (*Ex parte Blackmore*, 1 B. & Adol. 122). He has a discretion on the subject. A custom that every parishioner has a right to bury his dead relations as near his ancestors as possible in a particular part of the churchyard cannot be maintained (*Fryer v. Johnson*, 2 Wils. 28). The accustomed fees for burials are payable, although, if denied, the clergyman must still perform the office of burial (*Gilbert v. Buzzard*, 2 Hagg. 355).

(*k*) See Appendix, Form 14, p. 136.

(without prejudice to the fees and payments herein specially provided for) fix and settle and receive such fees and payments in respect of interments in any burial ground provided by such board as they shall think fit, and also the sums to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription in such burial ground, and every burial board, with the consent of the vestry, may from time to time revise and alter such fees, payments, and sums as aforesaid; and a table showing such fees, payments, and sums, and all other fees and payments in respect of interments in such ground, shall be printed and published, and shall be affixed and at all times continued on some conspicuous part of such burial ground (*l*).—15 & 16 Vict. c. 85, s. 34.

All such fees, payments, and sums as may be fixed, settled, and received by any burial board under section thirty-four of the said act of the fifteenth and sixteenth years of her Majesty, shall be so fixed and settled subject to the approval of one of her Majesty's principal secretaries of state; and no such fees, payments, or sums shall be altered or varied without such approval.—18 & 19 Vict. c. 128, s. 7.

Where at the time of the discontinuance of inter-

(*l*) A scale of the fees, which have been adopted by some burial boards, is given in the Appendix, p. 155.

ment in any burial ground the fees in respect of burials therein are divided between the incumbent of the parish and the incumbent of any district parish or other ecclesiastical district, each incumbent shall have the same proportion of the fees in the burial ground to be provided under this act as he was entitled to in respect of interments in the old burial ground (*m*).—15 & 16 Vict. c. 85, s. 35.

Where fees or any portion of fees payable on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any parish for which a burial ground is provided alone or jointly with any other parish or parishes under this act, are by law or custom payable to the churchwardens of any parish, or to trustees or other persons, for or towards the payment of any annuity or stipend

(*m*) All acts, laws and customs shall apply in the district parishes formed under the act 59 Geo. 3, c. 134, in the same manner as if the same had been ancient and distinct parishes (s. 17). But said commissioners may direct that all or any of the fees, in case of division of any parish into district parishes, shall continue to belong to the incumbent of the original parish church (3 Geo. 4, c. 72, s. 12). Similar provisions for additional churches without division of parishes by 1 & 2 Will. 4, c. 38, s. 14. If districts subsequently assigned to such churches, commissioners, with consent of bishop, or bishop alone, may apportion fees after next avoidance of the parish church to incumbents of district churches (3 & 4 Vict. c. 60, s. 18). By 8 & 9 Vict. c. 70, s. 10, fees in church of any consolidated chapelry formed as therein mentioned, to belong to incumbent thereof after next avoidance of incumbency of original parish church. By the 14 & 15 Vict. c. 97, ss. 2, 3, 4, compensation may be made by commissioners to incumbents of original parishes for loss of fees by reason of their transfer to incumbents of district chapelries, consolidated chapelries or churches endowed under 1 & 2 Will. 4, c. 38: and after such compensation, or where no reservation of fees was made, all such fees shall belong to the incumbents of such district chapelries, &c. (14 & 15 Vict. c. 97, ss. 5, 6).

to the incumbent or minister, or any other parochial purpose, or the discharge of any debt or liability, such fees or portion of fees shall be payable in the burial ground to be provided as aforesaid for such parish under this act, and shall be received by the burial board and paid to the parties entitled to receive the same; and where fees or payments have been received on interments, or for any monument, gravestone, tablet or monumental inscription, in the burial ground of any such parish by any such churchwardens, or by trustees or other persons, for the purpose of discharging any periodical payment or other liability, it shall be lawful for the burial board, upon the request of such churchwardens, trustees or persons, to pay from time to time, out of the fees and monies received by them on account of such parish, such amount as may be necessary for discharging such periodical payment or liability.—
15 & 16 Vict. c. 85, s. 36.

It shall be lawful for the vestry of any parish from time to time, if they think fit, with the consent of the bishop of the diocese, to revise and vary the fees payable to the incumbent, clerk, and sexton, and other persons and bodies respectively, under the provisions of this act, or, with such consent as aforesaid, to substitute for the fees payable to such incumbent, clerk, and sexton, and other persons and bodies respectively, a fixed annual sum of such amount as to such vestry may seem just, to be payable by such periodical payments as such vestry may appoint, and in such last-mentioned case the fees which would otherwise be payable under this act to the incumbent, clerk, and sexton,

and such other persons and bodies respectively, shall be paid to the burial board, and such fixed payments as aforesaid shall be paid by such board.—15 & 16 Vict. c. 85, s. 37.

The general management, regulation, and control of the burial grounds provided under this act shall, subject to the provisions of this act and the regulations to be made thereunder, be vested in and exercised by the respective burial boards providing the same; provided that any question which shall arise touching the fitness of any monumental inscription placed in any part of the consecrated portions of such grounds shall be determined by the bishop of the diocese.—15 & 16 Vict. c. 85, s. 38.

Where a burial ground is provided under this act for the common use of two or more parishes, in case any question arise among the incumbents of such parishes as to the performance of the burial service by a chaplain to be paid by means of contributions from such incumbents, or deductions from fees or sums payable to them, or otherwise touching the performance of service in the consecrated part of such ground, the bishop of the diocese shall from time to time confirm any arrangement which a majority, or, in case of equal numbers, one-half of the incumbents shall approve, and such arrangement so confirmed shall be binding upon all the parties concerned.—15 & 16 Vict. c. 85, s. 39.

Where any body is buried in any of the cemeteries *mentioned in Schedule (B.) to this act (m)*, at the ex-

(m) This schedule applies to the metropolis only.

pense of any union or parish, the fee or sum to be paid or payable on the interment of such body, or otherwise in respect thereof, to the incumbent of the parish or ecclesiastical district from which such body is removed for interment, shall not exceed the sum of one shilling, or where the incumbent now receives in respect of the like burial in the ground of his parish more than one shilling shall not exceed the sum so now received, and in no case shall exceed two shillings and sixpence; and no other fee or sum whatsoever shall be payable in respect of such interment, to or for the use of any person as an officer of such parish or district, or for or on behalf of such parish or district, anything in *any act mentioned in the said Schedule (B.)* or any other act notwithstanding.—15 & 16 Vict. c. 85, s. 49.

And section forty-nine of the said act shall extend to all cemeteries already established and hereafter to be established under the authority of parliament in like manner as to those mentioned in Schedule (B.) to that act, and as respects the cemeteries to which such section is hereby extended, the same shall also apply in respect of burials at the expense of any hospital or infirmary in like manner as to burials at the expense of a union or parish.—16 & 17 Vict. c. 134 (part of), s. 7.

Where under any local act fees on interments in any burial ground of any parish are payable to the churchwardens of such parish, or to any trustees or other persons, for the purpose of enabling them to pay an annuity or stipend to the incumbent or minister, the fees which under this act, or any act relating to any cemetery company, would on the interment in

the cemetery of any company of any body brought from such parish be payable to such incumbent or minister, shall be payable to the said churchwardens, trustees, or persons, and any surplus of such fees which may remain in their hands after payment of such annuity or stipend shall be paid to such incumbent or minister.—15 & 16 Vict. c. 85, s. 50.

REGISTRATION OF BURIALS.

All burials within any burial ground provided under the said act of the last session of parliament or this act shall be registered in a register book to be provided by the burial board providing such ground (or, where the same is provided by the commissioners of sewers of the city of London, then by such commissioners), and kept for that purpose according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England; and such register book shall be so kept by some officer appointed by the said board or commissioners to that duty; and in such register books shall be distinguished in what parts of the burial ground, and where the whole of such burial ground is not consecrated for interments according to the rites of the United Church of England and Ireland, whether in the portion so consecrated or in the portion not so consecrated the several bodies (the burials of which are entered in such register books) are buried; and in case such burial ground has been provided for more than one parish, such register shall be kept or indexed so as to facilitate searches for entries in such books in respect

of bodies from the several parishes (*n*); and such register books, or copies or extracts therefrom, shall be received in all courts as evidence of the burials entered therein, and copies or transcripts of such register books, verified and signed by such officer as aforesaid, shall be from time to time sent to the registrar of the diocese, to be kept with the copies of the other register books of the parishes within such diocese; and the said register books, so far as respects searches to be made therein and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an act passed in the seventh year of King William the Fourth, intituled *An Act for Registering Births, Deaths, and Marriages in England*, so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.—16 & 17 Vict. c. 134, s. 8.

RATING AND PROTECTION OF NEW BURIAL GROUNDS.

No land already or to be hereafter purchased or acquired, under the provisions of any of the acts hereinbefore recited, for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.—18 & 19 Vict. c. 128, s. 15.

The provision of “*The Cemeteries Clauses Act*,

(*n*) A convenient form of register and index printed in sheets ready for binding may be obtained of C. Knight & Co., 90, Fleet-street.

1847," with respect to the protection of the cemetery, shall be incorporated with this act, and be applicable to any burial ground provided under this act (*o*).—15 & 16 Vict. c. 85, s. 40.

RECEPTION AND CONVEYANCE OF THE DEAD.

Any burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or the place of death to the burial ground which shall be provided under this act, or to any other place of

(*o*) A penalty not exceeding 5*l.* for any damage or nuisance is imposed by this act, 10 & 11 Vict. c. 65, ss. 58, 59 (see Appendix, p. 83); and for the recovery of the penalty, clauses 145 to 149 and 151 to 160 of the Railway Clauses Act, 8 & 9 Vict. c. 20, are incorporated, by which it is provided that every penalty may be recovered by summary proceeding before two justices. Any justice to issue summons requiring offender to appear to be served personally, or left at usual place of abode; and on proof by one credible witness on oath, conviction may follow to the extent of the penalty incurred, and such costs as justices shall think fit. In default of payment, warrant of distress may be issued. Offender may be detained until return made to warrant of distress, or held to bail. If no sufficient distress can be had, offender may be committed without bail for any term not exceeding three months. Any surplus after distress and sale to be returned to the party. No distress shall be unlawful for want of form, but any defect to be satisfied by action on the case. Penalties must be sued for within six months. Any damage to be made good, in addition to the penalty to be determined by justices, and recoverable in like manner. Any witness may be summoned and examined on oath, and on neglect or refusal (reasonable expenses being paid), every such person shall forfeit not exceeding 5*l.* Any officer or agent of the company (*i. e.* burial board), or person called to his assistance, may seize any offender and convey him before a justice without warrant. No proceeding to be quashed for want of form. Party may appeal within four months to quarter sessions, on giving security and ten days' notice in writing to the party against whom the appeal shall be brought. Court to make reasonable order thereupon. Appeal from any order of any metropolitan police magistrate to be subject to the terms provided in that behalf by 2 & 3 Vict. c. 71. Persons giving false evidence liable to the penalties of perjury.

burial (*p*), subject to the provisions of this act and the regulations to be made thereunder, and it shall be lawful for any of the aforesaid cemetery companies to undertake any such arrangement, and to carry the same into effect, subject to the provisions and regulations as aforesaid.—15 & 16 Vict. c. 85, s. 41.

It shall be lawful for any burial board, with the approval of the vestry, and subject to the provisions of this act, and the regulations to be made thereunder, and for the churchwardens and overseers of the poor of any parish for which a burial board shall not have been appointed under this act, by the direction of the vestry, and subject as aforesaid, to hire, take on lease, or otherwise to provide fit and proper places in which bodies may be received and taken care of previously to interment, and to make arrangements for the reception and care of the bodies to be deposited therein, and for providing such places such burial boards may exercise the powers vested in them under this act for providing burial grounds; and such churchwardens and overseers may exercise all such powers as, under the act of the fifty-ninth year of

(*p*) By 3 Geo. 4, c. 126, s. 32, no toll is to be demanded from any inhabitant of any parish, township or place, going to or returning from attending the funeral of any person who shall die and be buried in the parish, &c. in which any turnpike road shall lie; and clergymen going to or returning from parochial duty within their parishes are also exempt from toll, and this latter exemption has been considered to extend to the cases of clergymen who live out of the parishes in which they do duty regularly, and whether the turnpike gate be in either parish.

A convenient hand hearse has been used in many places so constructed that the coffin may be taken into the church without bearers, the hearse being afterwards drawn over the grave, and the corpse let down by means of pulleys. See also "Instructions," &c. in the Appendix, p. 139.

King George the Third, chapter twelve, or otherwise, the churchwardens and overseers of any parish not having a workhouse might exercise for providing a workhouse for such parish (*q*) (*r*).—15 & 16 Vict. c. 85, s. 42.

REGULATION BY SECRETARY OF STATE.

It shall be lawful for one of her Majesty's principal secretaries of state from time to time to make such regulations (*s*) in relation to the burial grounds and places for the reception of bodies previously to interment

(*q*) The powers here extended are as follows:—The churchwardens and overseers in any parish might by direction of the vestry build a workhouse, or alter any building for the purpose; purchase or lease any ground within the parish (59 Geo. 3, c. 12, s. 8); and, by direction of the vestry and consent of two justices, might sell any insufficient workhouse, with the site thereof, in aid of the erection of a new workhouse (s. 9); or hire any suitable building, not more than three miles distant, in any adjoining parish with like direction and consent (s. 10). Provided that not more than one shilling in the pound shall be raised or applied in any one year for the purposes therein mentioned, until a majority of inhabitants in general vestry assembled shall consent thereto, nor until two-thirds in value of all inhabitants (present or not) shall also sign their consent in the parish book (s. 14); but after one shilling in the pound shall have been actually levied and applied for such purposes, further sums might be raised by way of loan or sale of annuities, as therein directed, not exceeding five shillings in the pound (ss. 15, 16). See Appendix, p. 61.

(*r*) By 7 & 8 Vict. c. 101, s. 31, guardians, or, where none, overseers may bury poor persons dying within their unions or parishes, and may in certain cases, where requested, direct that the burial shall take place in the parish to which such poor person was chargeable, or in the parish in which the death occurred. And the 18 & 19 Vict. c. 79, s. 1, provides that where the burial ground of any parish is closed or overcrowded, such burial may take place in some neighbouring parish, the fees customary in such parish being paid; and by sect. 2 of the same act, the guardians or overseers are empowered to contract with any cemetery company or burial board, with the approval of the Poor Law Board, for the burial of any poor persons whom they may undertake to bury. This act is given entire in the Appendix, together with s. 31 of 7 & 8 Vict. c. 101, &c., p. 114.

(*s*) See Appendix. Regulations for New Grounds, p. 137.

which may be provided under this act as to him may seem proper, for the protection of the public health and the maintenance of public decency, and the burial boards and all other persons having the care of such burial grounds and places for the reception of bodies shall conform to and obey such regulations.—15 & 16 Vict. c. 85, s. 44.

It shall be lawful for one of her Majesty's principal secretaries of state from time to time to appoint and authorize any person to inspect any burial ground or cemetery, parochial or non-parochial, or place for the reception of bodies, to ascertain the state and condition thereof, and where regulations in relation thereto have been made or may be made by the secretary of state under the said acts or any of them, to ascertain whether such regulations have been observed and complied with; and if any person having the care of any such burial ground or cemetery (*s*) or other place shall obstruct any person so authorized to inspect the same, or if any person having the care of any burial ground or place for the reception of bodies subject to such regulations as aforesaid shall violate or neglect or fail to observe and comply with any such regulation, or any regulation imposed by this act, every person so offending shall upon summary conviction thereof before two justices forfeit and pay a sum not exceeding ten pounds (*t*).—18 & 19 Vict. c. 128, s. 8.

(*s*) The Brompton or West London Cemetery is vested in the Commissioners of Works (subject to the existing private rights), with power of sale, and in the meantime the secretary of state may permit its use for interments (15 & 16 Vict. c. 85, ss. 45, 6, 7, 8).

(*t*) For mode of recovering penalties, see note, page 14.

DISPOSITION AND CARE OF OLD GROUNDS.

Where any burial ground in which interment is discontinued under this act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry, or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish, and situate in or attached to such burial ground, and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry, or persons possessing the powers of vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees, as to the said bishop may seem proper; and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or in behalf of the parish to which such chapel and the site thereof belong; and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair such chapel, or to pay any stipend to the minister thereof, or otherwise in relation to or in connexion with such chapel, shall cease.—15 & 16 Vict. c. 85, s. 51.

In every case in which any order in council has been

or shall hereafter be issued for the discontinuance of burials in any churchyard or burial ground, the burial board or churchwardens, as the case may be, shall maintain such churchyard or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers, upon the certificate of the burial board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such churchyard or burial ground is situate, unless there shall be some other fund legally chargeable with such costs and expenses (*u*).—18 & 19 Vict. c. 128, s. 18.

The said acts of the fifteenth and sixteenth, sixteenth and seventeenth, and seventeenth and eighteenth years of her Majesty and this act shall be read and construed together as one act.—18 & 19 Vict. c. 128, s. 21.

(*u*) By the common law the parishioners are bound to repair the fence of the churchyard at their own charge (Lind. 253; 2 Inst. 489). By prescription the vicar may be liable to repair the fence, and an indictment will lie for a misdemeanor if any damage be occasioned by neglect (*R. v. Reynell*, 6 East, 315). If owners of adjoining lands have been used to repair, such is a good custom, and proceedings may be had at common law for neglect. By Canon 85, the churchwardens are to see to the repair, &c. of the churchyard in manner as accustomed, at the charge of the proper parties. The incumbent may bring his action for any trespass in the churchyard (Bro. Abr. Trespass, 210); so also may his lessee (2 Rol. Abr. 337).

By the 59 Geo. 3, c. 134, s. 39, the Church Building Commissioners may, with consent of two justices, and on notice given according to 55 Geo. 3, c. 68, alter, repair, pull down and rebuild the walls or fences of any existing burial ground of any parish or chapelry; and may also stop up and discontinue, alter or vary any entrance or gate leading into any burial ground, and the paths, footways and passages into, through or over the same, as to them may appear useless, or as they shall think fit.

A P P E N D I X.

STATUTES.

59 GEO. 3, c. 12, ss. 8, 9, 10, 14, 15, 16 (a).

An Act to amend the Laws for the Relief of the Poor.

[31st March, 1819.]

VIII. AND be it further enacted, that in any parish not having a workhouse for the poor thereof, or where the workhouse shall be found insufficient or inconvenient, it shall be lawful for the churchwardens and overseers of the poor, by the direction of the inhabitants in vestry assembled, to erect and build in such parish a suitable workhouse, or to alter and enlarge any messuage or tenement belonging to such parish for that purpose, and to purchase or take on lease any ground within the parish for the purpose of such building, or for enlarging any such other messuage or tenement belonging to such parish for that purpose, or such churchwardens and overseers may and they are hereby authorized to add to and enlarge any such insufficient workhouse, as the inhabitants of the parish in vestry shall think fit and direct.

Power to build or enlarge workhouses.

IX. And whereas it would be advisable to enable parishes to sell and dispose of their present workhouses, or any other houses or tenements belonging to such parishes, in cases where the same are insufficient and incapable of being enlarged or used as workhouses, and to apply the produce thereof in aid of building new workhouses; be it therefore enacted, that it shall and may be lawful for the churchwardens and overseers of the poor of any parish, and they are hereby authorized, by the direction of the inhabitants in vestry assembled, and with the consent of two justices, to be certified under their hands, to sell and dispose of any workhouse, or any other houses or tenements belonging to such parish, which shall be found to be insufficient or unfit for the purpose, with the site thereof, and the outhouses, offices, yards, and gardens thereto belonging, for the best price and prices that can be reasonably obtained, and to convey and assure the

Workhouses insufficient may be sold.

(a) See 15 & 16 Vict. c. 85, s. 42, p. 57.

same to the purchaser or purchasers thereof, his, her, or their heirs and assigns, or as he, she, or they shall direct, and to apply the produce of such sale, after deducting the reasonable expenses thereof, towards the purchase or building of a new workhouse, or in or towards the payment of any money to be borrowed under the authority of this act, as the inhabitants in vestry shall direct.

Where no poorhouse, &c. can be procured in the parish, adjoining parish may be resorted to.

X. And whereas there may be parishes in which no sufficient poorhouse or workhouse can be procured for the accommodation of the poor thereof; be it further enacted, that it shall and may be lawful for the churchwardens and overseers of the poor of every such parish, by the direction of the inhabitants thereof in vestry assembled, to purchase or hire any suitable and convenient house or houses, building or buildings, for that purpose, in any adjoining parish, with the consent of two or more justices, such consent to be written upon or annexed to the agreement for purchasing or hiring such house or houses, building or buildings: Provided always, that no such house or building shall be situate more than three miles from the parish for which the same shall be purchased or hired.

Limiting the amount to be raised for buildings and the purchase of lands, &c.

XIV. Provided, and be it further enacted, that no sum exceeding the amount of a rate or assessment at one shilling in the pound upon the annual value of the property in any parish assessable to the rates for the relief of the poor shall be raised, expended, or applied, in any one year, in purchasing, building, and repairing any buildings or land by this act authorized to be purchased, taken, built, or repaired, and in fitting up, preparing, and furnishing such buildings, and in stocking such land, or for any one or more of such purposes or objects, unless the major part of the inhabitants and occupiers assessed to the relief of the poor, in vestry assembled, shall consent thereto, nor until two-third parts in value of all the inhabitants and occupiers so assessed as aforesaid (whether present in vestry or not) shall have also signed their consent thereto in the vestry or parish book.

Power to raise further sums by loans or by the sale of annuities.

XV. And be it further enacted, that in every case where the inhabitants of any parish shall, in manner aforesaid, consent that a greater sum than the amount of a rate or assessment of one shilling in the pound will raise shall be expended in one year for all or any of such purposes and objects, it shall be lawful for the churchwardens and overseers of the poor of such parish, with the consent of such majority as aforesaid of the inhabitants and occupiers thereof, to be given and signed in the manner hereinbefore directed, (after the rate or rates at or amounting to one shilling in the pound shall have been actually levied and applied for such purposes or some of them,) to raise any additional sum or sums by loan or by sale of an annuity or of annuities on any life or lives not being under the age of fifty years respectively, or for any certain

term not exceeding fifteen years, so as the whole sum to be raised for all or any of such purposes by loan and by the sale of annuities, or by either of such means, shall not be more than five shillings in the pound of or upon the true annual value of the property which shall in such parish be assessed to the poor's rates of every proposal for any such annuity being first stated to and approved of the inhabitants and occupiers of such parish in vestry assembled); and the churchwardens and overseers of the poor shall and they are hereby authorized, in the names and on the behalf of the inhabitants of the parish, to sign and execute securities for the money which shall be so borrowed, and for the annuities to be so granted, and by every such security to charge the produce of the future rates to be made for the relief of the poor of every such parish with the repayment of the principal sum which shall have been so borrowed, and the interest thereof, or with the payment of the annuity thereby granted (as the case may be), at and upon the days and times and in such manner and proportions as in and by the security for every such loan and annuity respectively shall be appointed and expressed for the payment thereof; and the money to be raised by such future rates shall be subject and liable to the payment of every such loan and the interest thereof, and of every such annuity accordingly. [Sic.]

Future rates
charged with
loans and
annuities.

XVI. Provided nevertheless, and be it enacted, that no greater sum in the whole than the amount of a rate or assessment at one shilling in the pound shall in any parish be charged upon the future rates thereof, unless two-third parts in value of the proprietors of messuages, lands, and tenements within such parish, (whether for estates of freehold or copyhold, or by virtue of leases for terms of not less than fifteen years absolute or determinable upon a life or lives,) shall have consented to raise the money for which the charge or security shall purport to be made, such consents to be given by writing under the hands of all persons and corporations sole, and the consent of every corporation aggregate under the hand of the president, head, or chief member thereof for the time being, and the consents of females covert, minors, insane persons, and persons out of the kingdom, by and under the hands of their respective husbands, guardians, committees, trustees, attorneys, or agents, who are respectively authorized to give such consents; and the consent of the major part of the trustees for any charitable or other purpose shall be sufficient in respect of the trust estates.

No greater
rate than one
shilling in
the pound
shall be
charged on
future rates,
unless with
consent of
two-thirds
in value of
the proprie-
tors of
premises.

8 & 9 VICT. c. 18(a).

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature.

[8th May, 1845.]

Act to apply to all undertakings authorized by acts hereafter to be passed.

WHEREAS it is expedient to comprise in one general act sundry provisions usually introduced into acts of parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That this act shall apply to every undertaking authorized by any act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed together therewith as forming one act.

Interpretations in this act:

"Special act:"

"Prescribed:"

"The works:"

"Promoters of the undertaking."

And with respect to the construction of this act and of acts to be incorporated therewith, be it enacted as follows:

II. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "the promoters of the undertaking" shall

(a) See 15 & 16 Vict. c. 85, s. 27, p. 36.

mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special act empowered to execute such works or undertaking.

III. The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,) Interpretations in this and the special act:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number: Number:

Words importing the masculine gender only shall include females: Gender:

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure: "Lands:"

The word "lease" shall include an agreement for a lease; "Lease:"

The word "month" shall mean calendar month: "Month:"

The expression "superior courts" shall mean her Majesty's superior Courts of Record at Westminster or Dublin, as the case may require: "Superior courts:"

The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath: "Oath:"

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town: "County:"

The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the county, city, borough, liberty, cinque port, or place where such lands shall be situate: and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate: "The sheriff:" "The clerk of the peace:"

The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; "Justices:"

“Two justices:”

and where any matter shall be authorized or required to be done by two justices, the expression “two justices” shall be understood to mean two justices assembled and acting together:

“Owner:”

Where, under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word “owner” shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking:

“The bank:”

The expression “the bank” shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of land situate in Ireland.

Short title of the act.

IV. And be it enacted, that in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression “The Lands Clauses Consolidation Act, 1845.”

Purchase of lands by agreement.

And with respect to the purchase of lands by agreement, be it enacted as follows:

Power to purchase lands by agreement.

VI. Subject to the provisions of this and the special act, it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special act authorized to be taken, and which shall be required for the purposes of such act, and with all parties having any estate or interest in such lands, or by this or the special act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

Parties under disability enabled to sell and convey.

VII. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest;

and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves, and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics, and idiots respectively could have exercised the same power under the authority of this or the special act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the special act if they had respectively been under no disability.

VIII. The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor, pursuant to the provisions of this or the special act, or any act incorporated therewith, and the power to release lands from any rentcharge or incumbrance, and to agree for the apportionment of any such rentcharge or incumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

Parties under disability to exercise other powers.

IX. The purchase-money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors, if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration

Amount of compensation in case of parties under disability to be ascertained by valuation and paid into the bank.

in writing, subscribed by them or him, of the correctness thereof; and all such purchase-money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner hereinafter mentioned.

Where
vendor abso-
lutely en-
titled, lands
may be sold
on chief
rents.

X. It shall be lawful for any person seised in fee of or entitled to dispose of absolutely for his own benefit any lands authorized to be purchased for the purposes of the special act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rentcharge payable by the promoters of the undertaking, but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum.

Payment of
rents to be
charged on
tolls.

XI. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rents shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

Municipal
corporations
not to sell
without the
approbation
of the trea-
sury.

XV. Nothing in this or the special act contained shall enable any municipal corporation to sell for the purposes of the special act, without the approbation of the commissioners of her Majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special act, other than such lands as the company are by the powers of this or the special act empowered to purchase or take compulsorily.

*Application
of compen-
sation.*

And with respect to the purchase-money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

Purchase-
money pay-
able to parties
under disabili-
ty amount-
ing to 200*l.* to
be deposited
in the bank.

LXIX. If the purchase-money or compensation which shall be payable in respect of any lands or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor, or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the bank, in the name and with the privity of

the Accountant-general of the Court of Chancery in England if the same relate to lands in England or Wales, or the Accountant-general of the Court of Exchequer in Ireland if the same relate to lands in Ireland, to be placed to the account there of such Accountant-general ex parte the promoters of the undertaking (describing them by their proper name), in the matter of the special act (citing it), pursuant to the method prescribed by any act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

Application of monies deposited.

In the purchase of other lands, to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

LXX. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of Exchequer in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said Accountant-general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

Order for application and investment meanwhile.

LXXI. If the purchase-money or compensation shall not amount to the sum of two hundred pounds and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the

Sums from 20*l.* to 200*l.* to be deposited or paid to trustees.

party so entitled ; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees ; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose ; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

Sums not exceeding 20*l.* to be paid to parties.

LXXII. If any such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

All sums payable under contract with persons not absolutely entitled to be paid into bank.

LXXIII. All sums of money exceeding twenty pounds which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands, under a contract or agreement with any person who shall not be entitled to dispose of such lands or of the interest therein contracted to be sold by him absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid ; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the bill authorizing the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy : Provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of Exchequer in Ireland, or the said trustees, as the case may be, to allot to any tenant for life or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

Court of chancery

LXXIV. Where any purchase-money or compensation paid into the bank under the provisions of this or the special

act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

may direct application of money in respect of leases or reversions as they may think just.

LXXV. Upon deposit in the bank in manner hereinbefore provided of the purchase-money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, the owner of such lands, including in such term all parties by this act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made; and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase-money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices, as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

Upon deposit being made the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking, upon deed poll being executed.

LXXVI. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest

Where parties refuse to

convey, or do not show title, or cannot be found, the purchase-money to be deposited.

therein, on tender of the purchase-money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase-money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with the privity of the Accountant-general of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them, so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Upon deposit being made a receipt to be given, and the lands to vest upon a deed poll being executed.

LXXVII. Upon any such deposit of money as last aforesaid being made, the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase-money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Application of monies so deposited.

LXXVIII. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may

order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

LXXIX. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Party in possession to be deemed the owner.

LXXX. In all cases of monies deposited in the bank under the provisions of this or the special act, or an act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: Provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of Exchequer in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands in different sums and at different times, in which case it shall be

Costs in cases of money deposited.

lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

Conveyances.

And with respect to the conveyances of lands, be it enacted as follows :

Form of conveyances.

LXXXI. Conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the Schedules (A.) and (B.) respectively to this act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form in which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules, or as near thereto as the circumstances of the case will admit, shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration or by construction of law on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders reversions, limitations, trusts, and interests whatsoever of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged they shall in equity afford the same protection as if they had been kept on foot and assigned to a trustee for the promoters of the undertaking, to attend the reversion and inheritance.

Costs of conveyances.

LXXXII. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title.

Taxation of costs of conveyances.

LXXXIII. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing-masters of the Court of Chancery, or by a Master in Chancery in Ireland, upon an order of the same court, to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner hereinbefore provided in

other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of taxation.

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows:

*Entry on
lands.*

LXXXIV. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special act, until they shall either have paid to every party having any interest in such lands, or deposited in the bank, in the manner herein mentioned, the purchase-money or compensation agreed or awarded to be paid to such parties respectively for their respective interest therein: Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

—
Payment of
price to be
made pre-
vious to
entry, except
to survey,
&c.

LXXXV. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made or verdict given for the purchase-money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the bank by way of security, as hereinafter mentioned, either the amount of purchase-money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters, if they be a corporation, or if they be not a corporation, under the hands and seals of the said promoters or any two of them, with two sufficient sureties, to be approved of by two justices, in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the bank for the benefit of the parties interested in such lands, as the case may require, under the provisions herein contained, of all such purchase-money or compensation

Promoters to
be allowed
to enter on
lands before
purchase, on
making de-
posit by way
of security,
and giving
bond.

as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the land so entered upon, together with interest thereon at the rate of five pounds per centum per annum from the time of entering on such lands until such purchase-money or compensation shall be paid to such party, or deposited in the bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase-money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special act.

Upon deposit
being made,
cashier to
give receipt.

LXXXVI. The money so to be deposited as last aforesaid shall be paid into the bank in the name and with the privity of the Accountant-general of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the land so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what purpose and to whose credit the same shall have been paid in.

Deposit to
remain as a
security,
and to be
applied
under the
direction of
the court.

LXXXVII. The money so deposited as last aforesaid shall remain in the bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the conditions of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

The com-
pany may
pay the
deposit

LXXXVIII. If at any time the company be unable, by reason of the closing of the office of the Accountant-general of the Court of Chancery in England or the Court of Exche-

quer in Ireland, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank, to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-general's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the Accountant-general, and upon production of such direction at the Bank of England the money so previously paid in shall be placed to the credit of the said Accountant-general accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

money into the bank by way of security during the time that the office of the accountant-general is closed.

LXXXIX. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required to be purchased or permanently used for the purposes of the special act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by action in any of the superior courts: Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall *bonâ fide* and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as hereinbefore mentioned, although such person may not have been legally entitled thereto.

Penalty on the promoters of the undertaking entering upon lands without consent before payment of the purchase money.

Decision of justices not conclusive as to the right of the promoters.

Proceedings in case of refusal to deliver possession of lands.

XC. On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

XCI. If in any case in which, according to the provisions of this or the special act, or any act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

Lands in mortgage.

Power to redeem mortgages.

And with respect to lands subject to mortgage, be it enacted as follows:

CVIII. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special act, and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and in-

terest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months notice of his intention to redeem the same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

CIX. If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the bank in the manner provided by this act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also if such payment be made before the expiration of six months notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

Deposit of mortgage money on refusal to accept.

CX. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such land, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage debt so far as the same will extend, and upon payment or tender thereof the mortgagee shall convey or release all his interest in such

Sum to be paid when mortgage exceeds the value of the lands.

mortgaged lands to the promoters of the undertaking, or as they shall direct.

Deposit of money when refused on tender.

CXI. If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the bank, in the manner provided by this act in like cases, and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

Sum to be paid where part only of mortgaged lands taken.

CXII. If a part only of any such mortgaged lands be required for the purposes of the special act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage, and shall be signed by the mortgagee; and a copy of such memorandum

shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

CXIII. If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the bank, in the manner provided by this act in the case of monies required to be deposited in such bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof; nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money or the residue thereof (as the case may be), and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

Deposit of money when refused on tender.

CXIV. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be incurred by such mortgagee in respect of or which shall be incidental to the reinvestment of the sum so paid off, such costs in case of difference to be taxed and payment thereof enforced in the

Compensation to be made in certain cases, if mortgage paid off before the stipulated time.

manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on reinvesting the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained.

Leases.

Where part only of lands under lease taken, the rent to be apportioned.

And with respect to lands subject to leases, be it enacted as follows :

CXIX. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part; and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only of the land had been included in the lease.

Tenants to be compensated.

CXX. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

Compensation to be

CXXI. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a

year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an in-coming tenant, and for any loss or injury he may sustain, or, if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special act.

made to
tenants at
will, &c.

CXXII. If any party, having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

Where
greater inte-
rest claimed
than from
year to year,
lease to be
produced.

10 & 11 VICT. c. 65 (a).

An Act for consolidating in One Act certain Provisions usually contained in Acts authorizing the making of Cemeteries.

[9th July, 1847.]

Whereas it is expedient to comprise in one act sundry provisions usually contained in acts of parliament authorizing the making of cemeteries, and that as well for avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for insuring greater uniformity in the provisions themselves: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that this act shall extend only to such cemeteries as shall be authorized by any act of parliament hereafter to be passed which shall declare that this act shall be incorporated therewith, and all the clauses of this act, save so far as they

Extent of
Act.

(a) See 15 & 16 Vict. c. 85, s. 40, p. 54.

shall be expressly varied or excepted in any such act, shall apply to the cemetery authorized thereby, so far as they are applicable to such cemetery, and shall, with the clauses of every other act incorporated therewith, form part of such act, and be construed therewith as forming one act.

Interpretations in this act.

"Special act:"

"Company:"

Penalty for damaging the cemetery.

Penalty on persons committing nuisances in the cemetery.

8 & 9 Vict. c. 20, incorporated as to damages, &c.

And with respect to the construction of this act and any act incorporated therewith, be it enacted as follows:

II. The expression "the special act" used in this act shall be construed to mean any act which shall be hereafter passed authorizing the making of a cemetery, and with which this act shall be incorporated; and the expression "the company" shall mean the persons by the special act authorized to construct the cemetery.

LVIII. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to the cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill therein or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within the cemetery, or do any other wilful damage therein, shall forfeit to the company for every such offence a sum not exceeding five pounds.

LIX. Every person who shall play at any game or sport, or discharge fire-arms, save at a military funeral, in the cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the cemetery, shall forfeit to the company for every such offence a sum not exceeding five pounds.

LXII. The clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special act; and such clauses shall apply to the cemetery and to the company respectively (a).



15 & 16 VICT. c. 85.

An Act to amend the Laws concerning the Burial of the Dead in the Metropolis. [1st July, 1852.]

13 & 14 Vict. c. 52.

Whereas it is expedient to repeal "The Metropolitan Interments Act, 1850," and to make such other provision as hereinafter mentioned in relation to interments in and near the metropolis: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this

(a) See note, p. 55.

present parliament assembled, and by the authority of the same, as follows:

I. The said act shall be repealed: Provided always, that it shall be lawful for her Majesty to continue during the continuance of the General Board of Health the appointment of the additional member of such board authorized by the said act, and the salary of such member, fixed as in the said act mentioned, shall be paid as by section seven of the Public Health Act, 1848, is directed concerning the salaries therein mentioned (a). 13 & 14 Vict. c. 52, repealed, and her Majesty may continue additional member of board therein authorized.

II. In case it appear to her Majesty in council, upon the representation of one of her Majesty's principal secretaries of state, that for the protection of the Public Health Burials in any part or parts of the metropolis, or in any burial grounds or places of burial in the metropolis, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for her Majesty, by and with the advice of her privy council, to order that after a time mentioned in the order burials in such part or parts of the metropolis or in such burial grounds or places of burial shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require; provided that notice of such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the privy council shall be published in the London Gazette, and shall be affixed on the doors of the churches or chapels of the parishes in which any burial grounds or places of burial affected by such representation shall be situate, or on some other conspicuous places within the part or parts of the metropolis affected by such representation, one calendar month, or where any order made under "The Nuisances Removal and Diseases Prevention Act, 1848," directing the provisions of that act for the prevention of epidemic, endemic, and contagious diseases to be put in force, is in force within such part or parts, then seven days at the least before such representation is so considered: Provided always, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk of such parish. On representation of secretary of state, her Majesty in council may order discontinuance of burials in any part of the metropolis.

III. No such order in council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; Order not to extend to burial grounds of Quakers or Jews, unless expressly included.

(a) This proviso is repealed by the General Board of Health Continuance Act of 1854.

and nothing in this act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Burial not to take place after order in council for discontinuance.

IV. It shall not be lawful, after the time mentioned in any such order in council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere, within the part or parts of the metropolis or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this act or in such order excepted; and every person who shall, after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanor (*a*).

Restriction as to place of burial of inhabitants of parishes the burial grounds whereof are closed.

V. After the time from which burials in any place of burial of any parish are required under this act to be discontinued, the body of any parishioner or inhabitant of such parish shall not be buried in any burial ground within the metropolis belonging to any other parish within the metropolis, save where the body of any of the family or relatives of such parishioner or inhabitant has been interred in such burial ground, and the relatives or other persons having the care and direction of the funeral signify a desire that on that account the body of such parishioner or inhabitant should be there interred (such burial ground not being a burial ground in which burials have been ordered to be discontinued under this act), and save as herein otherwise provided; and every person having the care or control of any burial ground who knowingly authorizes or permits any burial therein contrary to this enactment shall be guilty of a misdemeanor.

Saving of certain rights to bury in vaults, &c.

VI. Provided always, that notwithstanding any such order in council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this act any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this act, it shall be lawful for one of her Majesty's principal secretaries of state from time to time, on application (*b*) being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right dur-

(*a*) See notes (*d*) and (*e*), p. 13.

(*b*) See note (*f*), p. 15.

ing such time and subject to such conditions and restrictions as such secretary of state may think fit, but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this act had not been passed.

VII. The provisions of this act shall not extend to authorize the discontinuance of burials or to prevent the burial of the body of any person in any of the cemeteries mentioned in the Schedule (B.) to this act, or in any burial ground or cemetery to be hereafter provided with the approval of one of her Majesty's principal secretaries of state, as herein mentioned.

Saving as to cemeteries in schedule (B.) and new burial grounds hereafter approved of by secretary of state.

VIII. Nothing in this act contained shall extend to prevent the interment in the cathedral church of Saint Paul's London, or in the collegiate church of Saint Peter's Westminster, of the body of any person, where her Majesty, by any writing under her royal sign manual, shall signify her pleasure that the body be so interred.

Saving as to St. Paul's Cathedral and Westminster Abbey.

IX. No new burial ground or cemetery (parochial or non-parochial) shall be provided and used in the metropolis, or within two miles of any part thereof, without the previous approval of one of her Majesty's principal secretaries of state (a).

New burial grounds in the metropolis to be approved by secretary of state.

X. Upon the requisition in writing of ten or more ratepayers of any parish in the metropolis in which the place or places of burial shall appear to such ratepayers insufficient or dangerous to health (and whether any order in council in relation to any burial ground in such parish has or has not been made), the churchwardens or other persons to whom it belongs to convene meetings of the vestry (b) of such parish shall convene a meeting of the vestry, for the special purpose of determining whether a burial ground shall be provided under this act for the parish (c); and public notice of such vestry meeting, and the place and hour of holding the same, and the special purpose thereof, shall be given in the usual manner in which notices of the meetings of the vestry are given, at least seven days before holding such vestry meeting (d); and if it be resolved by the vestry that a burial ground shall be provided under this act for the parish (e), a copy of such resolution, extracted from the minutes of the vestry, and signed

Churchwardens, after order, or at any time, upon requisition of ten ratepayers, to convene vestry meeting, to determine whether a burial ground shall be provided.

(a) See note (g), p. 15.

(b) See note (h), p. 16.

(c) See post, Form 1, p. 126.

(d) See post, Form 2, p. 126.

(e) See post, Form 3, p. 127.

by the chairman, shall be sent to one of her Majesty's principal secretaries of state (*a*).

In case vestry agree to provide a burial ground, board to be appointed.

Resignation of members.

Vacancies to be filled up by vestry. Meetings of the board.

Quorum of meetings of the board.

Board may appoint and remove officers, &c.

Minutes of proceedings of board to be entered in a book.

XI. In case of such resolution as aforesaid the vestry shall appoint not less than three nor more than nine persons, being ratepayers of the parish, to be the burial board of such parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), shall go out of office yearly at such time as shall be from time to time fixed by the vestry, but shall be eligible for immediate reappointment: Provided always, that the incumbent of the parish shall be eligible to be appointed and reappointed from time to time as one of the members of the said board, although not a ratepayer of the parish (*b*); provided also, that any member of the board may at any time resign his office, on giving notice in writing to the churchwardens or persons to whom it belongs to convene meetings of the vestry.

XII. Any vacancies in the board may be filled up by the vestry when and as the vestry shall think fit.

XIII. The board shall meet at least once in every month at their office, or some other convenient place previously publicly notified, and the said board may meet at such other time as at any previous meeting shall be determined upon; and it shall be at all times competent for any two members of the board, by writing under their hands, to summon, with at least forty-eight hours notice, the board for any special purpose mentioned in such writing (*c*), and to meet at such time as shall be appointed therein.

XIV. At all meetings of the board any number not less than three members of such board shall be a sufficient number for transacting business, and for exercising all the powers of the board.

XV. The board shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for the business of the board and for the purposes of their burial ground, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business.

XVI. Entries of all proceedings of the board, with the names of the members who attend each meeting, shall be made in books to be provided and kept for that purpose, under the direction of the board, and shall be signed by the members present or any two of them; and all entries purporting to be so signed shall be received as evidence, without proof of any meeting of the board having been duly convened or

(*a*) See post, Form 4, p. 128.

(*b*) See note (*o*), p. 19.

(*c*) See post, Form 5, p. 128.

held, or of the presence at any such meeting of the persons named in any such entry as being present thereat, or of such persons being members of the board, or of the signature of any person by whom any such entry purports to be signed, all which matters shall be presumed until the contrary be proved; and the board shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for on account of the purposes of this act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money are paid and such liabilities incurred.

Board to keep accounts, which shall be open to inspection.

XVII. All such books shall at all reasonable times be open to the examination of every member of such board, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the members of such board, or any of them, or any of the officers or servants of such board having the custody of the said books, being thereunto reasonably requested, refuse to permit or do not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copies or extracts, every such member, officer, or servant so offending shall for every such offence, upon a summary conviction thereof before any justice of the peace, forfeit any sum not exceeding five pounds (*a*).

Penalty for refusing to allow inspection.

XVIII. The vestry shall yearly appoint two persons, not being members of the board, to be auditors of the accounts of the board, and at such time in the month of March in every year as the vestry shall appoint the board shall produce to the auditors their accounts, with sufficient vouchers for all monies received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry.

Auditors to be appointed yearly, who shall examine the accounts, and report to vestries.

XIX. The expenses incurred or to be incurred by the burial board of any parish in carrying this act into execution shall be chargeable upon and paid out of the rates for the relief of the poor of such parish, the expenses to be so incurred for or on account of any parish in providing and laying out a burial ground under this act and building the necessary chapel or chapels thereon not to exceed such sum as the vestry shall authorize to be expended for such purpose; and the overseers or other officers authorized to make and levy rates for the relief of the poor in any parish shall, upon receipt of a certificate (*b*) under the hands of such number of members of the burial board as are authorized to exercise the powers of the board of the sums required from time to time for defraying any such expenses as aforesaid, pay such sums out of the rates for the relief of the poor as the board shall direct.

Expenses to be paid out of the poor's rate.

(*a*) See note, p. 14.

(*b*) See post, Form 6, p. 128.

Power to borrow money, with sanction of vestry, and approval of the treasury.

XX. Provided always, That it shall be lawful for the board, with the sanction of the vestry and the approval of the commissioners of her Majesty's treasury, to borrow any money required for providing and laying out any burial ground under this act, and building a chapel or chapels thereon, or any of such purposes, and to charge the future poor rates of the parish with the payment of such money and interest thereon (*a*); provided that there shall be paid in every year, in addition to the interest of the money borrowed and unpaid, not less than one-twentieth of the principal sum borrowed, until the whole is discharged.

The public works loan commissioners may advance money for the purposes of this act.

XXI. The commissioners for carrying into execution an act of the session holden in the fourteenth and fifteenth years of her Majesty, chapter twenty-three, "to authorize for a further period the advance of money out of the consolidated fund to a limited amount for carrying on public works and fisheries and employment of the poor," and any act or acts amending or continuing the same, may from time to time make to the burial board of any parish for the purposes of this act any loan under the provisions of the recited act, or the several acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish (*b*).

Monies raised, and the income arising from burial ground, to be applied towards defraying expenses.

XXII. The money raised for defraying such expenses, and the income arising from the burial ground provided for the parish, except fees payable to the incumbent, clerk, and sexton of the parish, and the other fees herein directed to be otherwise paid, shall be applied by the board in or towards defraying the expenses of such board under this act; and whenever, after repayment of all monies borrowed for the purposes of this act in or for any parish and the interest thereof, and after satisfying all the liabilities of the board with reference to the execution of this act in or for the parish, and providing such a balance as shall be deemed by the board sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the board, they shall pay the same to the overseers, in aid of the rate for the relief of the poor of the parish (*c*).

Vestries of parishes may concur in providing a burial ground for the common use of such parishes.

XXIII. The vestries of any parishes which shall have respectively resolved to provide burial grounds under this act may concur in providing one burial ground for the common use of such parishes, in such manner, not inconsistent with the provisions of this act, as they shall mutually agree, and may agree as to the proportions in which the expenses of such

(*a*) See note (*u*), p. 30.

(*b*) See note (*x*), p. 30.

(*c*) See note (*y*), p. 32.

burial ground shall be borne by such parishes (a), and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the monies to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the burial boards appointed for such parishes respectively shall, for the purpose of providing and managing such one burial ground, and taking and holding land for the same, act as one joint burial board for all such parishes, and may have a joint office, clerk, and officers, and all the provisions of this act shall apply to such joint burial board accordingly; and the accounts and vouchers of such board shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such board shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

XXIV. For the more easy execution of the purposes of this act the burial board of every parish appointed under this act shall be a body corporate, by the name of "The Burial Board for the Parish of () in the County of ()," and by that name shall have perpetual succession and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of this act; and where the burial boards of two or more parishes act as and form one joint burial board for all such parishes for the purposes aforesaid, such joint board shall for such purposes only be a body corporate by the name of "The Burial Board for the Parishes of and in the County of " and by that name shall have perpetual succession and a common seal, and shall sue and be sued and have power and authority as aforesaid to take, purchase, and hold land for the purposes of this act.

Incorporation of burial boards.

XXV. Every burial board shall, with all convenient speed, proceed to provide a burial ground for the parish or parishes for which they are appointed to act, and to make arrangements for facilitating interments therein; and in providing such burial ground the board shall have reference to the convenience of access thereto from the parish or parishes for which the same is provided; and any such burial ground may be provided either within or without the limits of the parish, or all or any of the parishes, for which the same is provided; but no ground not already used as or appropriated for a cemetery shall be appropriated as a burial ground, or as an addition to a burial ground, under this act, nearer than

Board to provide a burial ground, which may be within or without the parish.

(a) See note (o), p. 20.

two (a) hundred yards to any dwelling-house, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Board may, with approval of vestry, purchase land of cemeteries.

XXVI. For the providing such burial ground it shall be lawful for the burial board, with the approval of the vestry or vestries of the parish or respective parishes, to contract for and purchase any lands for the purpose of forming a burial ground (b), or for making additions to any burial ground to be formed or purchased under this act, as such board may think fit, or to purchase from any company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to the rights in vaults and graves, and other subsisting rights, which may have been previously granted therein: Provided always, that it shall be lawful for such board, in lieu of providing any such burial ground, to contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, and either in any allotted part of such cemetery or cemeteries or otherwise, and upon such terms as the burial board may think fit, of the bodies of persons who would have had rights of interment in the burial grounds of such parish or respective parishes.

Certain provisions of 8 & 9 Vict. c. 18, incorporated with this act.

XXVII. "The Lands Clauses Consolidation Act, 1845 (c)," except the provisions of that act "with respect to the purchase and taking of lands otherwise than by agreement," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to lands acquired by the promoters of the undertaking under the provisions of the 'Lands Clauses Consolidation Act, 1845,' or the special act, or any act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special act by all parties interested," shall be incorporated with this act; and for the purposes of this act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such burial board.

Power to sell lands not wanted.

XXVIII. It shall be lawful for any such board, with the approval of the vestry, to sell and dispose of any lands purchased by them under this act, or any part thereof, in which no interment shall have taken place, and which it may appear to the board may be properly sold or disposed of; and for completing and carrying any such sale into effect such board may make and execute a conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct; and such conveyance shall be under the hands of at

(a) Now "one," amended by 18 & 19 Vict. c. 128, s. 9, (post, p. 120), and 17 & 18 Vict. c. 87, s. 12, p. 114.

(b) See post, Form 8, p. 130.

(c) See note (c), p. 36, and clauses at length, p. 64.

least two of the members of the board, and under the seal of the board (*a*); and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, 1845, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the hands of two of the members of the board shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received; and the money to arise from such sale shall be applied to such of the purposes of this act as the board shall think fit.

XXIX. Provided always, that any burial board under this act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the poor law board, may from time to time appropriate for the purposes of a burial ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish, or for any specific charity: Provided always, that where any land so taken and appropriated shall be subject to any charitable use such lands shall be taken on such conditions only as the Court of Chancery in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

Burial board may, with approval of vestry, &c., appropriate land belonging to parish.

XXX. It shall be lawful for any burial board to lay out and embellish any burial ground provided by such board in such manner as may be fitting and proper, and to build on any land to be purchased or appropriated for a burial ground under this act, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the united church of England and Ireland; and such burial ground may be consecrated by the bishop of the diocese, when the same shall appear to him to be in a fit and proper condition, for the purposes of interment according to the rites of the united church (*b*): Provided always, that in providing any burial ground such board shall set apart a portion thereof which shall not be so consecrated as aforesaid, and may (*c*) build thereon a suitable chapel or chapels for the performance of funeral service.

Board may lay out burial ground, and build a chapel, for performance of burials according to rites of Established Church.

Ground may be set apart for building a chapel, &c.

XXXI. Any burial board may from time to time enter into any contract with any persons or companies for building any chapel or chapels as aforesaid, and inclosing, laying out, and embellishing any burial ground, and for furnishing any materials and things, and for executing and doing any other works

Burial board may contract for works to be done.

(*a*) See post, Forms 9 and 10, pp. 130, 1.

(*b*) See note (*e*), p. 40.

(*c*) See 16 & 17 Vict. c. 134, s. 7, p. 41; 18 & 19 Vict. c. 128, s. 14, *ibid.*, and note (*h*), p. 42.

No contract
above 100%.
to be entered
into without
notice.

Burial
ground to be
the burial
ground of
the parish or
parishes for
which it is
provided.

and things necessary for the purposes of this act, which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of nonperformance (*a*); and all such contracts or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by such burial board for the purposes of this act unless previous to the making thereof fourteen days notice shall be given in one or more of the public newspapers published in the county or counties in which the parish or respective parishes shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the burial board at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the burial board to contract with the person offering the lowest price.

XXXII. From and after the consecration as aforesaid of any burial ground provided under this act, (except any portion thereof intended not to be so consecrated,) or where all or any part of such burial ground, by reason of the same having been already consecrated, shall not require to be consecrated, then from and after such time as the bishop of the diocese shall appoint, such burial ground shall be deemed the burial ground of the parish for which the same is provided, and where the same is provided for two or more parishes such burial ground shall be in law as if such parishes were one parish, and as if such burial ground were the burial ground of such one parish; and every incumbent or minister of the parish or of each of the parishes (as the case may be) for which such burial ground is provided shall, by himself and his curate, or such duly qualified persons as such incumbent or minister may authorize, perform the duties and have the same rights and authorities for the performance of religious service in the burial in such burial ground, or in the consecrated portion thereof, of the remains of parishioners or inhabitants of the parish of which he is such incumbent or minister, and shall be entitled to receive the same fees in respect of such burials which he has previously enjoyed and received (*b*); and the clerk and sexton of such parish or of each of such parishes shall (when necessary) perform and exercise the same duties and functions in respect of the burial of the remains of parishioners or inhabitants of the parish of which he is clerk or sexton in such burial ground or the consecrated portion thereof, and shall be entitled to receive the same fees on such burials, as he has

(*a*) See post, Forms 11 and 12, pp. 131-5.

(*b*) See note (*h*), p. 46.

previously performed and exercised and received, as if such burial ground were the burial ground of the respective parish of such incumbent or minister, clerk and sexton respectively (a); and the parishioners and inhabitants of such parish or of each of such parishes shall have the same rights of sepulture in such burial ground as they respectively would have had in the burial ground or burial grounds in and for their respective parish, subject nevertheless to the provisions herein contained (b).

XXXIII. Any burial board, under such restrictions and conditions as they think proper, may sell the exclusive right of burial (c), either in perpetuity or for a limited period, in any part of any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription in such burial ground, but there shall be payable to the incumbent or minister of the parish out of the fees or payments to be paid in respect of any rights acquired under this enactment in the consecrated part of such burial ground (in lieu of the fees or sums which he would have been entitled to on the grant of the like rights in the burial ground of his parish) such fees or sums as shall be settled and fixed by the vestry with the approval of the bishop of the diocese, or if no such fees or sums shall have been so settled then such fees as he would by law or custom have been entitled to on the grant of the like rights in the burial ground of his parish.

Board may sell exclusive rights of burial vaults, and right to erect monuments.

XXXIV. Every burial board under this act shall and may (without prejudice to the fees and payments herein specially provided for) fix and settle and receive such fees and payments in respect of interments in any burial ground provided by such board as they shall think fit, and also the sums to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any burial ground provided by such board, and also the right of constructing any vault or place of burial with the exclusive right of burial therein in perpetuity or for a limited period, and also the right of erecting and placing any monument, gravestone, tablet, or monumental inscription in such burial ground, and every burial board, with the consent of the vestry, may from time to time revise and alter such fees, payments, and sums as aforesaid; and a table showing such fees, payments, and sums, and all other fees and payments in respect of interments in such ground, shall be printed and published, and shall be affixed and at all times continued on some conspicuous part of such burial ground (d).

Board to fix payments for interments in burial ground, and for exclusive right of burial vaults, and right to erect monuments.

(a) See post, Form 13, p. 135.

(b) See note (j), p. 46.

(c) See post, Form 14, p. 136.

(d) See post, scale of fees adopted by some boards, p. 155.

Division of fees between incumbents of parishes and ecclesiastical districts.

XXXV. Where at the time of the discontinuance of interment in any burial ground the fees in respect of burials therein are divided between the incumbent of the parish and the incumbent of any district parish or other ecclesiastical district, each incumbent shall have the same proportion of the fees in the burial ground to be provided under this act as he was entitled to in respect of interments in the old burial ground (a).

Fees payable to churchwardens and others for parochial purposes.

XXXVI. Where fees or any portion of fees payable on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any parish for which a burial ground is provided alone or jointly with any other parish or parishes under this act, are by law or custom payable to the churchwardens of any parish, or to trustees or other persons, for or towards the payment of any annuity or stipend to the incumbent or minister, or any other parochial purpose, or the discharge of any debt or liability, such fees or portion of fees shall be payable in the burial ground to be provided as aforesaid for such parish under this act, and shall be received by the burial board and paid to the parties entitled to receive the same; and where fees or payments have been received on interments, or for any monument, gravestone, tablet, or monumental inscription, in the burial ground of any such parish by any such churchwardens, or by trustees or other persons, for the purpose of discharging any periodical payment or other liability, it shall be lawful for the burial board, upon the request of such churchwardens, trustees, or persons, to pay from time to time, out of the fees and monies received by them on account of such parish, such amount as may be necessary for discharging such periodical payment or liability.

Power to vestry, with consent of bishop, to revise the fees to incumbent, &c., or to substitute a fixed payment.

XXXVII. It shall be lawful for the vestry of any parish from time to time, if they think fit, with the consent of the bishop of the diocese, to revise and vary the fees payable to the incumbent, clerk, and sexton, and other persons and bodies respectively, under the provisions of this act, or, with such consent as aforesaid, to substitute for the fees payable to such incumbent, clerk, and sexton, and other persons and bodies respectively, a fixed annual sum of such amount as to such vestry may seem just, to be payable by such periodical payments as such vestry may appoint, and in such last-mentioned case the fees which would otherwise be payable under this act to the incumbent, clerk, and sexton, and such other persons and bodies respectively, shall be paid to the burial board, and such fixed payments as aforesaid shall be paid by such board.

Management to be vested in burial boards.

XXXVIII. The general management, regulation, and control of the burial grounds provided under this act shall,

(a) See note, p. 49.

subject to the provisions of this act and the regulations to be made thereunder, be vested in and exercised by the respective burial boards providing the same; provided that any question which shall arise touching the fitness of any monumental inscription placed in any part of the consecrated portions of such grounds shall be determined by the bishop of the diocese.

XXXIX. Where a burial ground is provided under this act for the common use of two or more parishes, in case any question arise among the incumbents of such parishes as to the performance of the burial service by a chaplain to be paid by means of contributions from such incumbents, or deductions from fees or sums payable to them, or otherwise touching the performance of service in the consecrated part of such ground, the bishop of the diocese shall from time to time confirm any arrangement which a majority, or, in case of equal numbers, one-half of the incumbents shall approve, and such arrangement so confirmed shall be binding upon all the parties concerned.

Arrange-
ments be-
tween the in-
cumbents of
parishes.

XL. The provision of "The Cemeteries Clauses Act, 1847," with respect to the protection of the cemetery, shall be incorporated with this act, and be applicable to any burial ground provided under this act (a).

Certain pro-
visions of
10 & 11 Vict.
c. 65, incor-
porated with
this act.

XLI. Any burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or the place of death to the burial ground which shall be provided under this act, or to any other place of burial, subject to the provisions of this act and the regulations to be made thereunder, and it shall be lawful for any of the aforesaid cemetery companies to undertake any such arrangement, and to carry the same into effect, subject to the provisions and regulations as aforesaid.

Boards may
make ar-
rangements
for facilita-
ting the con-
veyance of
bodies to
burial
grounds.

XLII. It shall be lawful for any burial board, with the approval of the vestry, and subject to the provisions of this act, and the regulations to be made thereunder, and for the churchwardens and overseers of the poor of any parish in the metropolis for which a burial board shall not have been appointed under this act, by the direction of the vestry, and subject as aforesaid, to hire, take on lease, or otherwise to provide fit and proper places in which bodies may be received and taken care of previously to interment, and to make arrangements for the reception and care of the bodies to be deposited therein, and for providing such places such burial boards may exercise the powers vested in them under this act for providing burial grounds; and such churchwardens and overseers may exercise all such powers as, under the act of the fifty-ninth year of King George the Third,

Places may
be provided
for reception
of bodies
until inter-
ment.

(a) See note, p. 55, and Appendix, p. 83.



chapter twelve, or otherwise, the churchwardens and overseers of any parish not having a workhouse might exercise for providing a workhouse for such parish (a).

The commissioners of sewers of the city of London to be a burial board for the parishes in the city and its liberties.

XLIII. The provisions hereinbefore contained for the appointment of burial boards shall not apply to any parish within the limits of the city of London and the liberties thereof; but it shall be lawful for the mayor, aldermen, and commons of the said city, in common council assembled, if and when they see fit so to do, to authorize and direct the commissioners of sewers of the city of London to exercise for the said city and liberties all the powers and authorities vested in burial boards under this act; and thereupon such commissioners shall have and exercise for and on behalf of the said city and liberties all such powers and authorities as are hereby vested in the burial board for any parish, or which might be exercised by such board with the approval of the vestry; but the expenses to be incurred by such commissioners in providing and laying out any burial ground or burial grounds under this act, and building the necessary chapel or chapels therein, shall not exceed such sum as the said mayor, aldermen, and commons in common council assembled shall authorize to be expended for this purpose; and the money required for defraying the expenses incurred under this act by the said commissioners shall be charged upon and payable out of the consolidated rate authorized to be made by "The City of London Sewers Act, 1848," or any monies applicable for defraying the expenses by the said act charged upon or payable out of such rate; and the income of any burial ground provided under this act by such commissioners, which if such ground had been provided by a burial board for any parish would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the said consolidated rate; and the provisions contained in "The City of London Sewers Act, 1848," for the purpose (as therein expressed) of enabling the said commissioners to effect the purchases therein authorized, shall be applicable for the purpose of enabling the said commissioners to purchase land for the purposes of this act; and the powers for and auxiliary to the sale and disposal of land given or expressed to be given by "The City of London Sewers Act, 1848," and "The City of London Sewers Act, 1851," with respect to land purchased by the said commissioners for any of the purposes mentioned in such last-mentioned act, and deemed by them unnecessary for such purposes, shall be applicable with respect to any land purchased by the said commissioners for the purposes of this act which may not appear to them to be wanted for such purposes; and all the provisions of the

(a) See notes, p. 57, and ante, 59 Geo. 3, p. 61, and 18 & 19 Vict. c. 79, p. 114.

said City of London Sewers Acts applicable to the exercise of the powers vested in the said commissioners shall be applicable to and for the purposes of this act, as if the powers which under this act may become vested in such commissioners had been powers vested in them under the said "City of London Sewers Act, 1848;" provided that it shall be lawful for the said mayor, aldermen, and commons to appoint any incumbent or incumbents of any parish or parishes within the said city or liberties to act with the said commissioners for the purposes of this act.

XLIV. It shall be lawful for one of her Majesty's principal secretaries of state from time to time to make such regulations in relation to the burial grounds and places for the reception of bodies previously to interment which may be provided under this act as to him may seem proper, for the protection of the public health and the maintenance of public decency, and the burial boards and all other persons having the care of such burial grounds and places for the reception of bodies shall conform to and obey such regulations. Secretary of state may make regulations as to burial grounds, &c.

XLV. And whereas the General Board of Health have, under the powers of the said Metropolitan Interments Act, 1850, taken proceedings for the purchase of the cemetery of the West of London and Westminster Cemetery Company, (commonly called the Brompton Cemetery,) and the amount of the purchase-money has been ascertained by arbitration, but such purchase may not have been completed at the time of the passing of this act: Brompton Cemetery vested in commissioners of works.

In case at the time of the passing of this act the said cemetery has not been conveyed to the General Board of Health, the rights and obligations of the General Board of Health with reference to the purchase of the said cemetery shall upon the passing of this act become transferred to the Commissioners of her Majesty's Works and Public Buildings; and in case the said cemetery shall be conveyed to them by virtue of the transfer hereby made of such rights and liabilities, then immediately upon such cemetery being so conveyed, or in case at the time of the passing of this act the said cemetery has been conveyed to the General Board of Health, then from and after the passing of this act the said cemetery shall, without any further conveyance, become vested in the said Commissioners of her Majesty's Works and Public Buildings, and their successors, in the like corporate capacity in which any lands, tenements, or hereditaments are vested in them under the act of this last session of parliament, chapter forty-two, but subject to the rights to graves, vaults, and monuments subject to which such cemetery may have been conveyed to such commissioners or to the General Board of Health, as the case may be, and subject to the powers and for the purposes hereinafter mentioned.

XLVI. And whereas by an act of the last session of par- Money authorized to

be advanced under 14 & 15 Vict. c. 89, may be applied in completing the purchase of the Brompton Cemetery.

liament, chapter eighty-nine, the Commissioners of her Majesty's Treasury are authorized to cause to be issued and advanced to the General Board of Health, out of the produce of the consolidated fund of the United Kingdom, a sum or sums not exceeding in the whole one hundred and thirty-seven thousand pounds, to be applied to the purposes to which money borrowed by the said Metropolitan Interments Act, 1850, is by the said act made applicable ;

It shall be lawful for the Commissioners of her Majesty's Treasury to cause to be advanced or issued to and applied by the Commissioners of her Majesty's Works and Public Buildings, out of the said consolidated fund, such part of the said sum of one hundred and thirty-seven thousand pounds as the said Commissioners of her Majesty's Treasury may think fit for the completion of the purchase of the said Brompton Cemetery, in case such purchase shall not have been completed at the time of the passing of this act, and for the care and management of the said cemetery; and the said Commissioners of the Treasury may also cause to be issued and advanced and applied such part of the said sum of one hundred and thirty-seven thousand pounds as the said Commissioners of the Treasury shall think fit in discharge of any liabilities of the said General Board of Health incurred under the powers of the said Metropolitan Interments Act, 1850, without requiring in the cases aforesaid any mortgage to be made for such advances.

Provision for winding up the West of London and Westminster Cemetery Company.

XLVII. After payment to the said West of London and Westminster Cemetery Company, either by the General Board of Health or by the Commissioners of her Majesty's Works and Public Buildings, of the purchase or consideration money for the said Brompton Cemetery, the said West of London and Westminster Cemetery Company shall continue only for the purpose of winding up the affairs and realizing and distributing the assets thereof, and satisfying any debts or engagements to or by the said company, and for the enforcement by law or in equity of such debts or engagements respectively, and the said company, as soon as conveniently may be after the payment of such purchase or consideration money, shall convert into money, by sale or otherwise, the effects of the said company, and get in the debts and assets thereof, and distribute and apportion the monies thence arising, together with such purchase or consideration money, after satisfying all the debts, engagements, and liabilities of the said company, to and among the several proprietors thereof, according to their respective shares and interests therein; and from and immediately after such distribution and apportionment the said company shall be dissolved, and the receipt of every person who for the time being would have been entitled to give an effectual discharge for any dividends which might have become payable in respect of any share in the said

cemetery, or in the capital stock of the said company, in case the said Metropolitan Interments Act and this act had not been passed, for the proportion of the monies which under this provision shall become payable in respect of such share, shall be an effectual discharge to the said company and the directors thereof for the same.

XLVIII. The said Commissioners of Works and Public Buildings shall and may, in case the said Brompton Cemetery be vested in them by or under this act, sell and dispose of the same or any part thereof, subject to the rights affecting the same, as the Commissioners of her Majesty's Treasury may direct; and in the mean time, until such sale, the secretary of state may and shall permit the same to be used for the purposes of interment, upon such terms and conditions as he shall think fit; and the residue of the monies arising from the sale and disposal of the said cemetery, or any part thereof, and in respect of the interments therein, after defraying the expenses incident to such sale and to the care and management of the cemetery, until the whole thereof shall be sold and disposed of, shall be paid to the metropolitan interments repayments account mentioned in the said act of the last session of parliament, to be carried to the said consolidated fund.

Brompton Cemetery may be sold by direction of the treasury, and in the mean time used for interments.

XLIX. Where any body is buried in any of the cemeteries mentioned in Schedule (B.) to this act, at the expense of any union or parish, the fee or sum to be paid or payable on the interment of such body, or otherwise in respect thereof, to the incumbent of the parish or ecclesiastical district from which such body is removed for interment, shall not exceed the sum of one shilling, or where the incumbent now receives in respect of the like burial in the ground of his parish more than one shilling shall not exceed the sum so now received, and in no case shall exceed two shillings and sixpence; and no other fee or sum whatsoever shall be payable in respect of such interment, to or for the use of any person as an officer of such parish or district, or for or on behalf of such parish or district, anything in any act mentioned in the said Schedule (B.) or any other act notwithstanding.

Limiting the compensation fee to be payable on pauper burials in cemeteries.

L. Where under any local act fees or interments in any burial ground of any parish in the metropolis are payable to the churchwardens of such parish, or to any trustees or other persons, for the purpose of enabling them to pay an annuity or stipend to the incumbent or minister, the fees which under this act, or any act relating to any cemetery company, would on the interment in the cemetery of any company of any body brought from such parish be payable to such incumbent or minister, shall be payable to the said churchwardens, trustees, or persons, and any surplus of such fees which may remain in their hands after payment of such annuity or stipend shall be paid to such incumbent or minister.

Incumbents compensation to be payable to the churchwardens where the fees on burials are now paid to them, and the incumbents are not entitled.

Power for incumbent or churchwardens to convey chapel.

LI. Where any burial ground in which interment is discontinued under this act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry, or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish, and situate in or attached to such burial ground, and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry, or persons possessing the powers of vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees, as to the said bishop may seem proper; and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or in behalf of the parish to which such chapel and the site thereof belong; and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair such chapel, or to pay any stipend to the minister thereof, or otherwise in relation to or in connexion with such chapel, shall cease.

Interpretation of terms.

LII. In this act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

“Parish” shall mean every place having separate overseers of the poor, and separately maintaining its own poor:

“Ratepayers” shall mean the persons for the time being assessed to and paying rates for the relief of the poor of the parish:

“Incumbent” and “minister” shall, in respect of any fee made payable to an incumbent or minister under this act, mean the clergyman who would have been entitled to the fee had the body been buried in the churchyard or burial ground of the parish from which it came, or in the burial ground of the ecclesiastical district in case such district has a burial ground at the passing of this act, and if any difference shall arise between two or more persons severally claiming to be the incumbent or minister under this provision, such difference shall be determined by the bishop of the diocese:

“Churchwardens” shall mean also chapelwardens, or other persons discharging the duties of churchwardens:

“Overseers” shall mean also any person authorized and required to make and collect or cause to be collected

the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

“Vestry” shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select or other vestry elected under an act of the fifty-ninth year of king George the third, chapter twelve, “to amend the laws for the relief of the poor,” or elected under an act passed in the second year of king William the fourth, chapter sixty, “for the better regulation of vestries, and for the appointment of auditors of accounts, in certain parishes of England and Wales,” or elected under the provisions of any local act of parliament for the government of any parish by vestries, in which parishes it shall mean such select or other vestry:

“Clerk” shall mean the clerk appointed pursuant to this act by any burial board appointed under this act.

LIII. For the purposes of this act, the expression “the metropolis” shall be construed to mean and include the cities and liberties of London and Westminster, the borough of Southwark, and the parishes, precincts, townships, and places mentioned in the Schedule (A.) to this act. Definition of “the metropolis.”

LIV. Provided always, that nothing in this act contained shall extend to take away, diminish, alter, or prejudice any of the rights, powers, or authorities vested in any of the cemetery companies incorporated under the several acts mentioned in the said Schedule (B.) to this act, but all such rights, powers, and authorities shall be as good, valid, and effectual as if this act had not passed. Saving rights of cemetery companies.

SCHEDULE (A.)

The city of London and the liberties thereof, the Inner Temple and Middle Temple, and all other places and parts of places contained within the exterior boundaries of the liberties of the city of London.

IN MIDDLESEX.

The city and liberties of Westminster.

The parishes of St. Margaret and St. John the Evangelist.

The parish of St. Martin in the Fields.

The parish of St. George Hanover Square.

The parish of St. James.

The parish of St. Mary-le-Strand, as well within the liberty of Westminster as within the Duchy liberty.

The parish of St. Clement Danes, as well within the liberty of Westminster as within the Duchy liberty.

The parish of St. Paul Covent Garden.

The parish of St. Anne Soho.

Whitehall Gardens (whether the same be parochial or extra-parochial).

Whitehall (whether the same be parochial or extra-parochial).

Richmond Terrace (whether the same be parochial or extra-parochial).

The close of the collegiate church of St. Peter.

The parishes of St. Giles in the Fields and St. George Bloomsbury.

The parishes of St. Andrew Holborn and St. George the Martyr.

The liberty of Hatton Garden, Saffron Hill, and Ely Rents.

The liberty of the Rolls.

The parish of St. Pancras.

The parish of St. John Hampstead.

The parish of St. Marylebone.

The parish of Paddington.

The precinct of the Savoy.

The parish of St. Luke.

The liberty of Glasshouse Yard.

The parish of St. Sepulchre.

The parish of St. James Clerkenwell, including both districts of St. James and St. John.

The parish of St. Mary Islington.

The parish of St. Mary Stoke Newington.

The Charterhouse.

The parish of St. Mary Whitechapel.

The parish of Christchurch Spitalfields.

The parish of St. Leonard Shoreditch.

The liberty of Norton Folgate.

The parish of St. John Hackney.

The parish of St. Matthew Bethnal Green.

The hamlet of Mile End Old Town.

The hamlet of Mile End New Town.

The parish of St. Mary Stratford Bow.

The parish of Bromley St. Leonard.

The parish of All Saints Poplar.

The parish of St. Anne Limehouse.

The hamlet of Ratcliffe.

The parish of St. Paul Shadwell.

The parish of St. George in the East.

The parish of St. John Wapping.

The liberty of East Smithfield.

The precinct of St. Catherine.

The liberty of her Majesty's Tower of London, consisting of—

The liberty of the Old Artillery Ground.

The parish of Trinity, Minories.

The Old Tower precinct.

The precinct of the Tower Within.

The precinct of Wellclose.

The parish of Kensington.

The parish of St. Luke Chelsea.

The parish of Fulham.

The parish of Hammersmith.

Lincoln's Inn.

New Inn.

Gray's Inn.

Staple Inn.

That part of Furnival's Inn in the county of Middlesex.

Ely Place.

The parish of Willesden.

IN KENT.

The parish of St. Paul Deptford.

The parish of St. Nicholas Deptford.

The parish of Greenwich.

The parish of Woolwich.

The parish of Charlton.

The parish of Plumstead.

IN SURREY.

The borough of Southwark.

The parish of St. George the Martyr.

The parish of St. Saviour.

The parish of St. John Horsleydown.

The parish of St. Olave.

The parish of St. Thomas.

The parish of Battersea (except the hamlet of Penge).

The parish of Bermondsey.

The parish of Camberwell.

The parish of Clapham.

The parish of Lambeth.

The parish of Newington.

The parish of Putney.

The parish of Rotherhithe.

The parish of Streatham.

The parish of Tooting.

The parish of Wandsworth.

The parish of Christchurch.

The Clink liberty.

The hamlet of Hatcham in the parish of Deptford.

SCHEDULE (B.)

The several CEMETERIES established under the several Acts hereinafter mentioned; viz.—

2 & 3 W. 4,
c. cx.

An act for establishing a general cemetery for the interment of the dead in the neighbourhood of the metropolis:

6 & 7 W. 4,
c. cxxix.

An act for establishing a cemetery for the interment of the dead southward of the metropolis, to be called the "South Metropolitan Cemetery:"

6 & 7 W. 4,
c. cxxxvi.

An act for establishing cemeteries for the interment of the dead northward, southward, and eastward of the metropolis, by a company to be called "The London Cemetery Company:"

1 Vict.
c. cxxx.

An act for establishing a cemetery for the interment of the dead westward of the metropolis, by a company to be called "The West of London and Westminster Cemetery Company:" and

4 & 5 Vict.
c. lxiii.

An act to establish a general cemetery for the interment of the dead in the parishes of Saint Dunstan Stepney and Saint Leonard Bromley in the county of Middlesex.

The Victoria Park Cemetery in the parish of Saint Matthew Bethnal Green in the county of Middlesex: and

The Abney Park Cemetery in the parish of Saint Mary Stoke Newington in the county of Middlesex.

16 & 17 VICT. c. 134.

An Act to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis. [20th August, 1853.]

15 & 16 Vict.
c. 85.

WHEREAS an act was passed in the last session of parliament, "to amend the Laws concerning the Burial of the Dead in the Metropolis," and it is expedient to make better provision for and in relation to burials beyond the limits of the said act: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

On representation of secretary of state, her Majesty in council may restrain the opening of new burial grounds, and order discontinuance of burials in

I. In case it appear to her Majesty in council, upon the representation of one of her Majesty's principal secretaries of state, that for the protection of the public health the opening of any new burial ground in any city or town, or within any other limits, save with the previous approval of one of such secretaries of state, should be prohibited, or that burials in any city or town, or within any other limits, or in any burial grounds or places of burial, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for her Majesty, by and with the

advice of her privy council, to order that no new burial ground shall be opened in such city or town, or within such limits, without such previous approval, or (as the case may require) that after a time mentioned in the order burials in such city or town, or within such limits, or in such burial grounds or places of burial, shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require: Provided always, that notice of such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the privy council, shall be published in the London Gazette, and shall be affixed on the doors of the churches or chapels of, or on some other conspicuous places within, the parishes affected by such representation, one month before such representation is so considered: Provided also, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk or churchwardens of such parish.

II. No such order in council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such order; and nothing in this act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such order in council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such order.

Order not to extend to burial grounds of Quakers or Jews, unless expressly included.

III. It shall not be lawful, after the time mentioned in any such order in council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere within the parts to which such order extends, or in the burial grounds or places of burial (as the case may be) in which burials have by any such order been ordered to be discontinued, except as in this act or in such order excepted; and every person who shall, after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body, contrary to this enactment, shall be guilty of a misdemeanor (a).

Burial not to take place after order in council for discontinuance.

IV. Provided always, that, notwithstanding any such order in council, where by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this act any right of interment in or under any church or chapel affected by such order, or in any vault of any such

Saving of certain rights to bury in vaults, &c.

(a) See notes (d) and (e), p. 13.

church or chapel, or of any churchyard or burial ground affected by such order, and where any exclusive right of interment in any such burial ground has been purchased or acquired before the passing of this act, it shall be lawful for one of her Majesty's principal secretaries of state, from time to time, on application (*a*) being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such secretary of state may think fit, but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this act had not been passed.

Not to extend to cemeteries established by act of parliament, or new burial grounds, &c.

V. The provisions of this act shall not extend to authorize the discontinuance of burials, or to prevent the burial of the body of any person, in any cemetery (*b*) established under the authority of any act of parliament, or in any burial ground or cemetery to be hereafter provided with the approval of one of her Majesty's principal secretaries of state, as herein mentioned.

New burial grounds not to be opened contrary to order in council.

VI. Where by any such order in council as aforesaid it is ordered that no new burial ground shall be opened in any city or town, or within any limits therein mentioned, without the previous approval of one of her Majesty's principal secretaries of state, no new burial ground or cemetery (parochial or non-parochial) shall be provided and used in such city or town, or within such limits, without such previous approval (*c*).

Certain provisions of metropolitan burial act, 15 & 16 Vict. c. 85, extended to parishes, &c. not in the metropolis.

VII. All the provisions contained in the said act of the last session of parliament, chapter eighty-five, "to amend the Laws concerning the Burial of the Dead in the Metropolis," from section ten to section forty-two (both inclusive) of the said act, and also in sections forty-four, fifty, fifty-one, and fifty-two of the said act, shall extend and be applicable to and in respect of any parish not in the metropolis, and for the purpose of providing a burial ground for any such parish, or otherwise providing for the interment of the bodies of persons who would have had right of interment in the burial ground of any such parish, and generally in relation to every such burial ground to be so provided, and the fees and payments to be received in respect of interment or other rights therein and otherwise, as if such sections were re-enacted in this

(*a*) See note (*f*), p. 15.

(*b*) See note (*c*), p. 11.

(*c*) See note (*g*), p. 15.

act, and the words "in the metropolis," wherever they occur in such sections, or any of them, were omitted; and section forty-nine of the said act shall extend to all cemeteries already established and hereafter to be established under the authority of parliament in like manner as to those mentioned in Schedule (B.) to that act, and as respects the cemeteries to which such section is hereby extended, the same shall also apply in respect of burials at the expense of any hospital or infirmary in like manner as to burials at the expense of a union or parish: Provided always, that in all cases in which any burial board shall provide a new burial ground under the said act of the last session of parliament or under this act, that new burial ground shall be divided into consecrated and unconsecrated parts, in such proportions, and the unconsecrated part thereof shall be allotted in such manner and in such portions, as may be sanctioned by one of her Majesty's principal secretaries of state; and when any burial board shall by virtue of section thirty of the said act build on any burial ground provided by such board a chapel for the performance of the burial service according to the rites of the united church of England and Ireland, they shall (a) also build, on the portion of such ground set apart for burials otherwise than according to the rites of the said church, such chapel accommodation for the performance of burial service by persons not being members of the said church as may be approved of by one of her Majesty's secretaries of state.

Any burial board building a chapel for burials according to the rites of the Church of England also to build a chapel for persons not being members of the Church of England.

VIII. All burials within any burial ground provided under the said act of the last session of parliament or this act shall be registered in a register book to be provided by the burial board providing such ground (or, where the same is provided by the commissioners of sewers of the city of London, then by such commissioners), and kept for that purpose according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England; and such register book shall be so kept by some officer appointed by the said board or commissioners to that duty; and in such register books shall be distinguished in what parts of the burial ground, and where the whole of such burial ground is not consecrated for interments according to the rites of the united church of England and Ireland, whether in the portion so consecrated or in the portion not so consecrated the several bodies (the burials of which are entered in such register books) are buried; and in case such burial ground has been provided for more than one parish, such register shall be kept or indexed so as to facilitate searches for entries in such books in respect of

Register of burials to be kept in every ground provided under 15 & 16 Vict. c. 85, or under this act.

Entries to be evidence.

(a) See 15 & 16 Vict. c. 85, s. 30, p. 41; 18 & 19 Vict. c. 128, s. 14, and note (f) thereon, p. 42.

bodies from the several parishes (*a*); and such register books, or copies or extracts therefrom, shall be received in all courts as evidence of the burials entered therein, and copies or transcripts of such register books, verified and signed by such officer as aforesaid, shall be from time to time sent to the registrar of the diocese, to be kept with the copies of the other register books of the parishes within such diocese; and the said register books, so far as respects searches to be made therein and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an act passed in the seventh year of King William the Fourth, intituled An Act for registering Births, Deaths, and Marriages in England, so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.

6 & 7 W. 4,
c. 86.

Act, except
ss. 7 and 8,
not to extend
to the metro-
polis.

Extent of
act.

IX. Nothing in this act, except the provisions in sections seven and eight, shall extend to any parish in "the metropolis," as defined by the said act of the last session, or otherwise affect the provisions of that act.

X. This act shall not extend to Scotland or Ireland.

17 & 18 VICT. c. 87.

An Act to make further Provision for the Burial of the Dead in England beyond the Limits of the Metropolis.

[10th August, 1854.]

16 & 17 Vict.
c. 134.

Whereas an act was passed in the last session of parliament, chapter one hundred and thirty-four, intituled An Act to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis: And whereas under the said act provision is made for providing burial grounds for parishes by burial boards to be appointed by vestries: And whereas in some cases of parishes wholly or partly within boroughs there is difficulty or inconvenience in providing requisite places of burial for the inhabitants under the powers of the said act, and it is expedient that in such cases such places of burial should be provided by the councils of such boroughs: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Her Majesty
may, by
order in
council,

I. In case it appear to her Majesty in council, upon the petition of the town council of any borough, stating that an order in council has been made for closing all or any of the

(*a*) See note, p. 54.

burial grounds of one or more parishes being wholly or partly within such borough, that there is difficulty or inconvenience in providing, under the powers of the said act of the last session of parliament, requisite places of burial for the inhabitants of such parish or parishes, it shall be lawful for her Majesty, with the advice of her privy council, to order that powers shall be vested in the council of such borough for providing such places of burial under the provisions of this act: Provided always, that notice of such petition and of the time when it shall please her Majesty to order that the same be taken into consideration by the privy council shall be published in the London Gazette, and in one of the newspapers usually circulating in such borough, one month at least before such petition is so considered.

invest town
councils
with the
power of
providing
burial
grounds.

II. Upon the making of any such order of her Majesty in council as aforesaid in relation to any borough, if the town council of the same shall decide upon providing one or more burial grounds, the said town council shall be a burial board for that purpose, and the provisions of the said act of the last session, and the provisions of the act of the fifteenth and sixteenth years of her Majesty, chapter eighty-five, in the said act of the last session mentioned or referred to, and thereby extended and made applicable as therein mentioned, except the provisions relating to the constitution, incorporation, meetings, entries of proceedings, and accounts of burial boards, shall, subject to the provisions herein contained, extend and be applicable to such borough and the council thereof, and to any burial ground and any places for the reception of the bodies of the dead previously to interment which may be provided by such council under this act, in like manner as the same are applicable to any parish and the burial board thereof, and to any burial ground and any such places as aforesaid provided by such burial board, save that no approval, sanction, or authorization of the vestry of any parish shall be requisite.

Upon the
making of
such order
borough
council to
have all the
powers
vested in
burial
boards under
16 & 17 Vict.
c. 134.

III. Provided always, that all expenses of carrying this act into execution in any borough shall, subject to the provisions hereinafter contained, be chargeable upon and paid out of the borough fund and borough rates of such borough, or partly out of such fund and partly out of such rates, in like manner as if the same were expenses incurred in carrying into effect the provisions of an act of the session holden in the fifth and sixth years of King William the Fourth, chapter seventy-six; and any money to be borrowed under the authority of this act by the council of such borough, and the interest thereon, shall be charged by such council on the monies out of which such expenses are by this act directed to be paid, and the said provisions hereby extended and made applicable to the said council shall be construed accordingly; and any surplus of money raised for defraying such expenses

Expenses to
be paid out
of borough
fund or
borough
rates.

as aforesaid, and of the income of any burial ground provided by the council of any borough, which if the same were provided by a burial board for any parish would be applicable in aid of the rate for the relief of the poor of such parish, shall be applicable in aid of the borough fund or borough rates of such borough, or in case a separate rate has been levied in parts only of such borough, for the purposes of this act, as hereinafter provided, then such surplus shall be applied rateably towards payment or satisfaction of so much of any borough rate as may be leviable in such parts of such borough: Provided always, that such surplus shall be ascertained upon the auditing of the accounts of the treasurer of such borough in the month of September in any year.

Money may be borrowed at lower rates of interest to pay off securities bearing a higher rate.

IV. If any burial board under the said act of the last session of parliament, or the council of any borough acting under this act, can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, they may, if they think fit, so borrow accordingly in order to pay off and discharge any security or securities bearing a higher rate of interest, and to secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other monies authorized to be borrowed by such burial board or council under the said act of the last session or this act.

Power to borrow money to pay off former mortgages.

V. If at the time appointed by any mortgage for payment of the principal money secured thereby any such burial board or council as aforesaid are unable to pay off the same, they may, if they think fit, borrow such sum of money as may be necessary for the purpose of paying off all or any part of such principal money, and secure the repayment of the money so borrowed, and the interest to be paid thereon, in like manner as other monies authorized to be borrowed by such burial board or council under the said act of the last session or this act.

Council how to act under this act, and conveyances and sales of lands how to be made.

VI. The council of any borough shall act in execution and exercise of their duties, powers, and authorities under this act in like manner as in execution and exercise of their duties, powers, and authorities under the said act of the fifth and sixth years of King William the Fourth; and every conveyance of lands to be purchased for the purposes of this act shall be taken in the name of the body corporate of such borough, and such body corporate shall have power to hold such lands for the purposes of this act; and no lands purchased under this act by the council of any borough shall be sold, except with the like approbation and subject to the like restrictions as if sold under the said act of the fifth and sixth years of King William the Fourth; and the signature of any member or members of such council shall not be necessary

to any conveyance of any lands so sold; and a receipt under the hand of the treasurer of such borough shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received.

VII. The burial ground or burial grounds provided for any borough under this act shall be deemed to be provided for such parish or parishes wholly or in part situate in such borough as the town council shall determine.

Burial ground to be deemed to be for the parishes in the borough. Council may fix a higher rate of payment for interment, &c. in respect of outlying part of any parish partly situate in the borough.

VIII. It shall be lawful for the council of any borough, if they see fit, in fixing and settling, revising and altering, the fees, payments, and sums mentioned in section thirty-four of the said act of the fifteenth and sixteenth years of her Majesty, from time to time to fix all or any of such fees, payments, and sums in respect of interments of the remains of persons, being inhabitants of that part of any parish partly within and partly without the limits of such borough which is without such limits, and in respect of other rights to be exercised with reference to the interment of the remains of such persons, at a higher amount than the ordinary charge for the time being fixed by such council in respect of the like matters; provided always, that such higher amount shall be fixed with the approval of one of her Majesty's principal secretaries of state.

IX. Where, previously to the making of any order in council under this act in relation to any borough, it appears to her Majesty in council, upon the petition of the town council so made as aforesaid, or otherwise, that any parish wholly or in part within such borough is provided with a sufficient burial ground, it shall be lawful for her Majesty in and by such order to direct that no part of such parish shall be assessed towards defraying the expenses of executing this act in such borough, and in such case no burial ground provided for such borough under this act shall be deemed to be provided for such parish; and any money required to be raised in such borough for defraying such expenses, or paying any money borrowed under this act by the council of such borough or any interest thereon, by means of a rate to be levied in such borough, shall be raised by a separate rate, to be levied within such parts of such borough as are not exempted under such order from being assessed as aforesaid; and (so far as may be consistent with this provision) the council of such borough shall have all such powers for making and levying such rate, and all provisions shall be applicable in respect thereof, as in the case of a borough rate made under the said act of the fifth and sixth years of King William the Fourth.

Order in council may except parishes already having burial grounds; and in such case, if a rate be necessary, a separate rate to be made on the rest of the borough.

X. The powers of settling and fixing the fees or sums to be payable to the incumbent or minister, and of revising and varying the fees payable to the incumbent, clerk, and sexton, and other persons and bodies, and of substituting for such fees fixed annual sums, by sections thirty-three and thirty-

Powers of vestry, with consent of bishop, of fixing and revising the

fees payable to incumbent, &c. transferred to the borough council.

Council may appropriate land belonging to the borough.

Burial ground not to be within 100 yards of a dwelling-house.

seven of the said act of the fifteenth and sixteenth years of her Majesty given to the vestry, and exercisable with the approval or consent of the bishop of the diocese, as therein mentioned, shall, with respect to fees and sums arising in or from any burial ground provided under this act by the council of any borough, be transferred to such council, and be exercisable with the like approval or consent(a).

XI. It shall be lawful for the council of any borough to appropriate for the purposes of this act any land belonging to the body corporate of such borough, or vested in any feoffees, trustees, or others, for the general benefit of the borough, or for any specific charity; provided always, that where any land so appropriated shall be subject to any charitable use, such land shall be taken on such conditions only as the Court of Chancery, in the exercise of its jurisdiction over charitable trusts, shall appoint and direct.

XII. So much of the said act of the fifteenth and sixteenth years of her Majesty as enacts, that "no ground (not already used as or appropriated for a cemetery) shall be appropriated as a burial ground or as an addition to a burial ground under that act nearer than two hundred yards to any dwelling-house, without the consent in writing of the owner, lessee, and occupier of such dwelling-house," shall not extend or be applicable to or in respect of any burial grounds which have been or may be provided under the said act of the last session and this act, or either of them, or to or in respect of any addition which has been or may be so provided to any burial ground; but no ground not already used as or appropriated for a cemetery shall be appropriated under the said act of the last session and this act, or either of them, as a burial ground, or as an addition to a burial ground, nearer than one hundred yards to any dwelling-house, without such consent as aforesaid.

18 & 19 VICT. c. 79.

An Act to amend the Law regarding the Burial of poor Persons by Guardians and Overseers of the Poor.

[30th July, 1855.]

7 & 8 Vict.
c. 101, s. 31.

Whereas by the act of the eighth year of the reign of her Majesty, chapter one hundred and one, provisions were made for the burial of poor persons by guardians and overseers of the poor(b): And whereas, in consequence of the closing of

(a) See post, p. 155, scale of fees adopted by some burial boards.

(b) The provisions here referred to are as follows:—"And be it declared and enacted, that it shall be lawful for guardians, or where there are no guardians for the overseers, to bury the body of any poor person which may be within their parish or

the burial grounds in many parishes, and the want of adequate space in others, great difficulty is frequently found in carrying into execution the above provisions, and it is expedient that other provisions should be made: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same:

I. That where the guardians of any union or parish, or any of their officers duly authorized in that behalf, or the overseers of any parish not under a board of guardians, shall undertake the burial of any poor person, or shall contribute

Where
burial ground
of parish
closed or
overcrowded,
guardians
or overseers

union respectively, and to charge the expense thereof to any parish under their control to which such person may have been chargeable, or in which he may have died, or otherwise in which such body may be; and unless the guardians, in compliance with the desire expressed by such person in his lifetime, or by any of his relations, or for any other cause, direct the body of such poor person to be buried in the churchyard or burial ground of the parish to which such person has been chargeable (which they are hereby authorized to do), every dead body which the guardians or any of their officers duly authorized shall direct to be buried at the expense of the poor rates shall (unless the deceased person, or the husband or wife or next of kin of such deceased person, have otherwise desired) be buried in the churchyard or other consecrated burial ground in or belonging to the parish, division of parish, chapelry, or place in which the death may have occurred; and in all cases of burial under the direction of the guardians or overseers as aforesaid the fee or fees payable by the custom of the place in which the burial may take place, or under the provisions of any act of parliament, shall be paid out of the poor-rates, for the burial of each such body, to the person or persons who by such custom or under such act may be entitled to receive any fee: Provided always, that it shall not be lawful for any officer connected with the relief of the poor to receive any money for the burial of the body of any poor person which may be within the parish, division of parish, chapelry, or place in which the death may have occurred, or to act as undertaker for personal gain or reward in the burial of any such body, or to receive any money from any dissecting school, or school of anatomy, or hospital, or from any person or persons to whom any such body may be delivered, or to derive any personal emolument whatever for or in respect of the burial or disposal of any such body; and any such officer offending as aforesaid shall, on conviction thereof before any two justices, forfeit and pay a sum not exceeding five pounds. 7 & 8 Vict. c. 101, s. 31.

may bury
in neighbour-
ing parish.

money or other aid towards the same, and the burial cannot take place in the parish where, according to the provisions of the said act, the same would have been required to take place, by reason of the public burial ground of such parish having been closed, and no other having been provided, or where, in consequence of the crowded state of such burial ground, the guardians or overseers respectively are of opinion that the burial of such dead body therein would be improper, it shall be lawful to bury such body in a public burial ground (some part of which has been consecrated) of or in some other parish as near as conveniently may be to the parish wherein the burial would have been required to take place according to the provisions of the said act: Provided, that in all cases of burial under the direction of the guardians or their officers, or of the overseers, as aforesaid, the fee or fees payable by the custom of the place where the burial may be, or under the provisions of any act of parliament, shall be paid by the said guardians or overseers for the burial of each such body to the person or persons who by such custom or under such act of parliament shall be entitled to receive such fee or fees.

Power to
enter into
agreements
with ceme-
tery com-
panies or
burialboards.

II. The guardians of any union or parish, or the overseers of any parish not under a board of guardians, may from time to time enter into agreements with the proprietors of any cemetery established under the authority of parliament, or with any burial board duly constituted under the statutes in that behalf, for the burial of the dead bodies of any poor persons which such guardians or overseers may undertake to bury, or towards the burial whereof they may render assistance; and thereupon the burial of any such body, under the directions of the said guardians or their officer, or of such overseers, or with their aid respectively, in such cemetery, or in the burial ground of such burial board, (unless the deceased person, or the husband or wife or next of kin of such deceased person, have otherwise expressly desired,) shall be lawful: Provided, however, that no such agreement shall be valid unless made in such form and with such stipulations as the Poor Law Board shall approve.

Construction
of words
to be as in
4 & 5 W. 4,
c. 76, &c.

III. The words contained in this act shall be construed in like manner as in the act of the fifth year of King William the Fourth, chapter seventy-six (*a*), and in the several acts incorporated therewith.

(*a*) The 4 & 5 Will. 4, c. 76, s. 109, enacts as follows:—The word “*guardian*” shall be construed to mean and include any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of the poor, and in the distribution or ordering of the relief to the poor from the poor-rate, under any general or local act of parliament; the word “*officer*”

18 & 19 VICT. c. 128.

An Act further to amend the Laws concerning the Burial of the Dead in England.

[14th August, 1855.]

Whereas an act was passed in the session of parliament holden in the fifteenth and sixteenth years of her Majesty (chapter eighty-five), “to amend the Laws concerning the Burial of the Dead in the Metropolis;” and an act was 15 & 16 Vict.
c. 85.

shall be construed to extend to any clergyman, schoolmaster, person duly licensed to practise as a medical man, vestry clerk, treasurer, collector, assistant overseer, governor, master or mistress of a workhouse, or any other person who shall be employed in any parish or union in carrying this act or the laws for the relief of the poor into execution, and whether performing one or more of the above-mentioned functions; the word “*overseer*” shall be construed to mean and include overseers of the poor, churchwardens, so far as they are authorized or required by law to act in the management or relief of the poor, or in the collection or distribution of the poor-rate, assistant overseer, or any other subordinate officer, whether paid or unpaid, in any parish or union, who shall be employed therein in carrying this act or the laws for the relief of the poor into execution; the word “*parish*” shall be construed to include any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division or district of a place, maintaining its own poor, whether parochial or extra-parochial; the word “*person*” shall be construed to include any body politic, corporate, or collegiate, aggregate or sole, as well as any individual; the word “*poor*” shall be construed to include any pauper or poor or indigent person applying for or receiving relief from the poor-rate in England or Wales, or chargeable thereto; the word “*union*” shall be construed to include any number of parishes united for any purpose whatever under the provisions of this act, or incorporated under the act made and passed in the twenty-second year of his late Majesty King George the Third, intituled An Act for the better Relief and Employment of the Poor, or incorporated for the relief or maintenance of the poor under any local act; and wherever in this act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there be something in the subject or context repugnant to such construction.

16 & 17 Vict. c. 134. passed in the session of parliament holden in the sixteenth and seventeenth years of her Majesty (chapter one hundred and thirty-four), "to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis, and to amend the Act concerning the Burial of the Dead in the Metropolis;" and an act was passed in the last session of parliament (chapter eighty-seven), "to make further Provisions for the Burial of the Dead in England beyond the Limits of the Metropolis:" And whereas it is expedient that further provision should be made for the burial of the dead, and that the said acts should be amended: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Orders in council under the recited acts may be varied by like orders.

I. It shall be lawful for her Majesty, by and with the advice of her privy council, from time to time to postpone the time appointed by any order in council for the discontinuance of burials, or otherwise to vary any order in council made under any of the said recited acts or this act, (whether the time thereby appointed for the discontinuance of burials thereunder or other operation of such order shall or shall not have arrived,) as to her Majesty, with such advice as aforesaid, may seem fit; and every order of her Majesty in council made before the passing of this act for varying any order previously made under the said acts or any of them shall be deemed valid and effectual in law.

Penalty on persons burying contrary to the provisions of orders in council.

II. If any person, after the time mentioned in any order in council under the said acts or any of them, or this act, for the discontinuance of burials, shall knowingly and wilfully bury any body or in anywise act or assist in the burial of any body in any church, chapel, churchyard, burial ground, or place of burial or (as the case may be) within the limits in which burials have by such orders been ordered to be discontinued, in violation of the provisions of any such order, every person so offending shall, upon summary conviction before two justices of the peace, forfeit a sum not exceeding ten pounds (*a*).

Power to churchwardens to call vestry meetings for providing burial grounds.

Where order in council

III. The churchwardens or other persons to whom it belongs to convene meetings of the vestry (*b*) of any parish in which no burial board has been appointed may, at any time, at their discretion, without requisition of ratepayers for that purpose, convene a meeting of such vestry for the purpose of determining whether a burial ground shall be provided for the parish (*c*); and where any order in council has been made before the passing of this act for discontinuing burials (wholly

(*a*) See note (*e*), p. 13.

(*b*) See note (*h*), p. 16.

(*c*) See Form 2, p. 126.

or subject to any exception or qualification) in any burial ground of any parish for which no burial board has been appointed, or notice has been given of the intention of the secretary of state to make a representation to her Majesty in council that burials should be discontinued (wholly or subject to any exception or qualification) in any burial ground of any parish, the churchwardens or other persons to whom it belongs to convene meetings of vestry shall, with all convenient speed after the passing of this act, convene a meeting of the vestry for the purpose aforesaid; and where at any time hereafter notice is given of the intention of the secretary of the state to make a like representation in relation to a burial ground of any parish, such churchwardens or other persons as aforesaid shall forthwith convene a meeting of the vestry for the purpose aforesaid; and all the provisions of the said acts as amended by this act relating to and consequent upon vestry meetings convened upon such requisition as provided by the first-recited act shall be applicable to vestry meetings convened under this enactment.

has been made, or notice given to apply to the privy council for closing burial grounds, churchwardens shall call a meeting of vestry.

IV. Every vacancy in any burial board shall be filled up by the vestry appointing the same within one month after such vacancy shall have happened, and immediately on the occurrence thereof the same shall be notified by the burial board to the churchwardens or other persons to whom it belongs to convene meetings of the vestry; and in case any such vestry shall neglect to fill up any such vacancy, the vacancy may be filled up by the burial board at any meeting thereof; and every person to be appointed to supply any such vacancy shall be a ratepayer of the parish for which the burial board is appointed; and every such board may act for any purpose, notwithstanding any vacancies therein.

Vacancies in burial board to be filled up by vestry within a month.

V. So much of section thirteen of the said act of the fifteenth and sixteenth years of her Majesty as requires that the burial board shall meet once at least in every month shall be repealed.

Monthly meetings of boards repealed.

VI. If the vestry of any parish shall refuse or neglect to authorize the expenditure of such sums as the burial board of such parish shall have declared to be necessary for providing and laying out a burial ground, and building the necessary chapel or chapels therein, it shall be lawful for such burial board to represent such refusal or neglect to one of her Majesty's principal secretaries of state; and in case it shall appear to the secretary of state, after inquiry into the circumstances of the case, that the burial board are unable to provide such burial ground, or to proceed effectually in the execution of their duties, by reason of such refusal or neglect, it shall be lawful for such secretary of state, by warrant under his hand, to authorize such burial board, without further authority, sanction, or approval of or by such vestry, to expend such sums of money for providing and laying out a

Sanction of vestry not required for expenditure and other acts of burial board in certain cases.

burial ground, and building the necessary chapel or chapels thereon, and to borrow and charge such money for all or any of such purposes, and to enter into and make such contracts and purchases, and do such other acts as under the sections nineteen, twenty, twenty-six, and forty-two of the said act of the fifteenth and sixteenth years of her Majesty might have been expended, borrowed, and charged, entered into, made, and done with the authority, approval, and sanction of such vestry, subject, nevertheless, to such limitation of amount or other limitation or restriction as such secretary of state may by his warrant prescribe; and all acts done in pursuance of such warrant shall be as valid and effectual as if the authority, approval, and sanction of such vestry had in every case been obtained (*a*).

Fees, &c.,
to be subject
to the
approval of
secretary of
state.

VII. All such fees, payments, and sums as may be fixed, settled, and received by any burial board under section thirty-four of the said act of the fifteenth and sixteenth years of her Majesty, shall be so fixed and settled subject to the approval of one of her Majesty's principal secretaries of state; and no such fees, payments, or sums shall be altered or varied without such approval (*b*).

Secretary of
state may
direct in-
spection of
burial
grounds.

VIII. It shall be lawful for one of her Majesty's principal secretaries of state from time to time to appoint and authorize any person to inspect any burial ground or cemetery, parochial or non-parochial, or place for the reception of bodies, to ascertain the state and condition thereof, and where regulations in relation thereto have been made or may be made by the secretary of state under the said acts or any of them, to ascertain whether such regulations have been observed and complied with; and if any person having the care of any such burial ground or cemetery or other place shall obstruct any person so authorized to inspect the same, or if any person having the care of any burial ground or place for the reception of bodies subject to such regulations as aforesaid shall violate or neglect or fail to observe and comply with any such regulation, or any regulation imposed by this act, every person so offending shall upon summary conviction thereof before two justices forfeit and pay a sum not exceeding ten pounds (*c*).

Penalty for
obstructing
inspector or
violating
regulations.

Part of
sect. 24 of
15 & 16 Vict.
c. 85, re-
pealed.

IX. So much of the said act of the fifteenth and sixteenth years of her Majesty as enacts that "no ground (not already used as or appropriated for a cemetery) shall be appropriated as a burial ground or as an addition to a burial ground under that act nearer than two hundred yards to any dwelling-house, without the consent in writing of the owner, lessee, and occupier of such dwelling-house," shall be repealed; but no

(*a*) See note (*o*), p. 20.

(*b*) See post, p. 155, for scale of fees adopted by some boards.

(*c*) See note, p. 14.

ground not already used as or appropriated for a cemetery shall be used for burials under the said act or this act, or either of them, within the distance of one hundred yards from any dwelling-house, without such consent as aforesaid.

Burial ground not to be within one hundred yards of a dwelling-house.

X. If the ratepayers assembled at any vestry duly convened under the provisions of this act shall, in pursuance of public notice duly given in that behalf, resolve unanimously that any new burial ground to be provided for their parish, under the provisions of this act, shall be held and used in like manner and subject to the same laws and regulations in all respects as the existing burial ground or churchyard of the said parish, the land for such new burial ground may be conveyed and settled in accordance with such resolution, anything in this or the said recited acts notwithstanding, and in such case it shall not be necessary to set apart to remain unconsecrated any portion of the land so conveyed and settled: Provided always, that if at any time within ten years thereafter the vestry, duly convened under the provisions of this act in pursuance of public notice duly given in that behalf, should determine that an unconsecrated burial ground should be also provided for such parish, all the powers and provisions of the said recited acts and this act may be put in force and shall be applicable for providing such unconsecrated burial ground separately, in like manner as they might have been put in force and been applicable for providing an ordinary burial ground for such parish(a).

If ratepayers resolve, land for new burial ground may be conveyed and settled as old burial ground.

XI. Where a parish or place has been united with any other parish or place, parishes or places, for all or any ecclesiastical purposes, or where two or more parishes or places have heretofore had a church or a burial ground for their joint use, or where the inhabitants of several parishes or places have been accustomed to meet in one vestry for purposes common to such several parishes or places, it shall be lawful for the vestry or any meeting in the nature of a vestry of such several parishes or places in any of the cases aforesaid, and whether any one or more of such parishes or places do or do not separately maintain its own poor, to appoint a burial board, and from time to time to supply vacancies therein, and to exercise the same powers of authorization, approval, and sanction in relation to such burial board, and such other powers as under the said acts and this act are vested in the vestry of a parish or place separately maintaining its own poor; and the burial board so appointed shall have all the powers for providing a burial ground for the common use of such several parishes or places, and for facilitating interments, and otherwise, as if such several parishes or places had been a parish separately maintaining its own

How burial grounds are to be provided for united parishes.

(a) See note (a), p. 35.

poor ; and the expenses of the burial board appointed under this provision shall be borne by the several parishes or places for which such board is appointed, and shall be apportioned among them by such burial board in proportion to the value of the property in such several parishes or places as rated to the relief of the poor ; and the sums required by the burial board in respect of the portion of such expenses to be borne by any such parish or place shall be paid out of the rates for the relief of the poor in such parish or place, in like manner as if such burial board had been appointed for such parish or place alone.

Burial boards may be appointed for township, &c. (not separately maintaining their own poor) which have had separate burial grounds.

XII. The vestry or meeting in the nature of a vestry of any parish, township, or other district not separately maintaining its own poor, which has heretofore had a separate burial ground, may appoint a burial board, and from time to time supply vacancies therein, and may exercise the same powers of authorization, approval, and sanction in relation to such burial board, and such other powers as under the said acts and this act are vested in the vestry of a parish separately maintaining its own poor ; and the burial board so appointed shall have all the powers for providing a burial ground and otherwise as if such parish, township, or other district had been a parish separately maintaining its own poor.

Provision for expenses of burial boards of places not separately maintaining their own poor.

XIII. Where any district (whether a parish or township or other subdivision) not separately maintaining its own poor, but forming part of a parish maintaining its own poor, or of an incorporation or other union maintaining the poor of the places comprised therein, by means of a common rate, shall have a burial board, or shall form part of a place or union of places not co-extensive with the area rated for the relief of the poor, and having one burial board, it shall be lawful for such respective burial board to issue their certificate (*a*) to the overseers of such parish, or the overseers or other persons authorized to make and collect or cause to be collected such common rate (as the case may be), for payment of the sums required for the expenses of such burial board, or, where such district not separately maintaining its own poor forms part only of the area of the burial board, of the sums required in respect of the portion of such expenses to be borne by such district, in like manner as if such district had been a parish separately maintaining its own poor, and such overseers or persons authorized as aforesaid had been the overseers thereof ; and such overseers or persons shall pay such sums as shall be required by such certificate, according to the directions of such burial board, and shall levy such sums as may be required for such payments to the burial board by an addition to the parish rate or common rate, so far as the same

(*a*) See post, Form 6, p. 128.

affects the district in respect of which such payments are required, or by separate rates to be made from time to time on such district; and for levying such additions or separate rates as aforesaid such overseers or other persons shall have the powers, remedies, and privileges, and proceed in the same manner, as in the case of the rates for the relief of the poor; provided that any such rates may (notwithstanding any restriction in relation to the parish rate or common rate) be made and levied at such times as may be necessary to provide for the payments aforesaid.

XIV. And whereas doubts have arisen whether in all cases in which any burial board shall build in any burial ground provided by such board a chapel for the burial service according to the rites of the united church of England and Ireland, such burial board is not also bound by law to build a chapel or chapels upon the unconsecrated part of such burial ground for the performance of burial service for persons not being members of the said church: be it enacted, that in any such case as aforesaid, where it shall appear to one of her Majesty's principal secretaries of state, upon the representation of a majority of the vestry of any parish, consisting of not less than three-fourths of the members of the same, that the building of a chapel upon the unconsecrated part of any such burial ground for the use of persons not being members of the said church is undesirable and unnecessary, it shall be lawful for the said secretary of state, if he shall think fit, to signify his opinion to that effect to the burial board of the parish, and the said burial board shall thereupon be relieved from all obligation to build the same (a): Provided always, that such secretary of state shall not signify his opinion as aforesaid unless it be shown to his satisfaction that notice of the intention to propose to such vestry to make such representation was given in manner required by law for notices of vestry meetings, and of the special purposes thereof.

No obligation to build a chapel for persons not members of the Church of England when secretary of state, upon representation of three-fourths of vestry, declares it unnecessary.

XV. No land already or to be hereafter purchased or acquired, under the provisions of any of the acts hereinbefore recited, for the purpose of a burial ground (with or without any building erected or to be erected thereon), shall while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.

Assessment to local rates not to be increased after purchases for the purposes of this or any former act.

XVI. That in any case where the burial boards appointed under the said recited acts of the fifteenth and sixteenth and the sixteenth and seventeenth years of her Majesty, or either of them, for any two parishes, shall provide separate burial grounds for such parishes respectively, and such burial grounds

Separate burial boards whose burial grounds adjoin may contract with

(a) See note (h), p. 42.

each other
for specific
purposes.

shall adjoin each other, it shall be lawful for the said burial boards to concur in building, either on one of the said burial grounds or partly on one of such grounds and partly on the other, such chapels as are authorized to be built by the said acts, and that such chapels when erected shall be used in common by both of such parishes, and be deemed and taken to be the chapels of and belonging to each of such burial grounds respectively, in such manner, consistent with the provisions of the said acts or either of them, as the said burial boards shall mutually agree upon; and that the said burial boards may agree as to the proportions in which the expenses of erecting such chapel accommodation shall be borne by each of the said boards respectively; and the proportion for each of such parishes of such expenses shall be chargeable upon and paid in the same manner as the costs of providing burial grounds under the said acts; and where any burial board shall provide a burial ground, and cause chapels to be built thereon, pursuant to the said recited acts, it shall be lawful for such burial board, with the sanction of one of her Majesty's principal secretaries of state, to contract with any other burial board whose burial ground shall adjoin the one on which such chapels shall so have been built, for the use of such chapels, in such manner and on such terms as such respective burial boards shall mutually agree, and that during the existence of any such agreement such chapels shall be deemed and taken to be the chapels of and belonging to each of such burial grounds respectively.

Burial board
may let land
not required
for burials.

XVII. It shall be lawful for any burial board, with the sanction of one of her Majesty's principal secretaries of state, and subject to regulations approved of by him, to let any land purchased by and vested in them under this act or any of the acts hereinbefore recited, and which has not been consecrated, and in which no body has been at any time interred, and which is not for the time being required for the purposes of a burial ground, in such manner and on such terms as such board may see fit, but so nevertheless that power shall be reserved to such board to resume any such land which may be required for the purposes aforesaid, upon giving six months notice.

Burial board
to keep in
order closed
burial
grounds, &c.

XVIII. In every case in which any order in council has been or shall hereafter be issued for the discontinuance of burials in any churchyard or burial ground, the burial board or churchwardens, as the case may be, shall maintain such churchyard or burial ground of any parish in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs and expenses shall be repaid by the overseers, upon the certificate of the burial board or churchwardens, as the case may be, out of the rate made for the relief of the poor of the parish or place in which such church-

yard or burial ground is situate, unless there shall be some other fund legally chargeable with such costs and expenses (a).

XIX. Nothing in this act contained shall in anywise abridge, lessen, or defeat any power, right, or privilege of any local board of health being the burial board of a borough created or to exist under or by virtue of any local act of parliament (b). Act not to abridge powers of local boards of health, &c.

XX. Any local board of health acting as or created a board under or by virtue of the powers of any local act of parliament shall and may have and exercise all the powers, rights, and privileges which by this act or by the secondly recited act are or can or may be had, enjoyed, or exercised by any burial board therein named. Local boards of health to exercise powers of this act.

XXI. The said acts of the fifteenth and sixteenth, sixteenth and seventeenth, and seventeenth and eighteenth years of her Majesty and this act shall be read and construed together as one act. Acts to be construed together.

(a) See note, p. 60.

(b) See note (p), p. 24.

FORMS.

No. 1.

Requisition for Meeting to determine whether a Burial Ground shall be provided.

15 & 16 Vict. c. 85, ss. x., xi.; and 16 & 17 Vict. c. 134,
s. vii.

To the churchwardens [*or others*] of the parish of _____,
in the county of _____.

We, the undersigned ratepayers of the before-mentioned parish, being of opinion that the place of burial belonging to [*description of ground or grounds*] within such parish [*is or are insufficient, or dangerous to health*], do hereby authorize and require you forthwith to convene a meeting of the vestry of the said parish, for the special purpose of determining whether a burial ground shall be provided for such parish, under the provisions of the acts 15 & 16 Vict. c. 85, and 16 & 17 Vict. c. 134. [And if it be resolved by the vestry that such burial ground shall be provided, to appoint not less than three nor more than nine persons, being ratepayers of the parish, to be the burial board of such parish.]

} Ratepayers of the
said parish [*not less than ten*].

No. 2.

Notice of Meeting.

15 & 16 Vict. c. 85, ss. x., xi., and 16 & 17 Vict. c. 134,
s. vii. [and 18 & 19 Vict. c. 128, s. iii.]

To be affixed to the church doors at least seven days prior to the meeting.

Parish of _____, in the county of _____.

We hereby convene a meeting of the vestry of this parish, to be held at _____, within the said parish, at _____.

o'clock in the of the day of
 next, [in pursuance of a requisition, signed by ten or more of
 the ratepayers thereof, requiring us to convene a meeting of
 the vestry] for the purpose of determining whether a burial
 ground shall be provided for the said parish, under the pro-
 visions of the acts 15 & 16 Vict. c. 85, and 16 & 17 Vict.
 c. 134, [and 18 & 19 Vict. c. 128.] [And if it be resolved
 by the vestry that such burial ground shall be provided, to
 appoint not less than three or more than nine persons, being
 ratepayers of the parish, to be the burial board of such
 parish.]

} Churchwardens [or others
 to whom it belongs to
 convene meetings of the
 vestry] of the parish of

No. 3.

Resolution to provide a Burial Ground.

15 & 16 Vict. c. 85, ss. x., xi., and 16 & 17 Vict. c. 134,
 s. vii.

At a meeting of the vestry of the parish of , in the
 county of , duly convened for the special purpose of
 determining whether a burial ground shall be provided for the
 said parish, under the Burials (beyond the Metropolis) Act,
 and held at , this day of , 18 .

It is resolved by the said vestry,

That a [new or additional] burial ground shall be provided
 for the said parish, under the said Burials (beyond the
 Metropolis) Act.

It is also resolved by the said vestry,

That the following persons, being respectively ratepayers
 of the said parish [together with the Rev. N. X., the in-
 cumbent of the said parish], shall be and they are hereby
 appointed to be the burial board of the said parish; that
 is to say, A. B., C. D., &c. [not less than three or more
 than nine.]

(Signed) G. H.,
 Chairman of the said vestry.

APPENDIX.

No. 4.

Notice to be sent to the Secretary of State.

15 & 16 Vict. c. 85, ss. x., xi., and 16 & 17 Vict. c. 134,
s. vii.

Sir, [My Lord,]

I have the honour to inform you that a meeting of the vestry of the parish of _____, in the county of _____, was held on the _____ day of _____ instant [last], pursuant to notice, given in accordance with the provisions of the acts 15 & 16 Vict. c. 85, and 16 & 17 Vict. c. 134, [and 18 & 19 Vict. c. 128]; and that the following resolution was passed at such meeting, viz. :—

[Copy resolution and append signature of the chairman of
the meeting.]

To the Secretary of State,
Home Office,
Whitehall.

No. 5.

Summons for Meeting of Burial Board.

15 & 16 Vict. c. 85, s. xiii., and 16 & 17 Vict. c. 134, s. vii.

Sir,

We hereby summon a meeting of the burial board of the parish of _____, to be held at _____, on _____ the _____ day of _____, instant [next], at _____ o'clock, in the _____ noon, for the purpose of [object of such special meeting must be clearly defined, and forty-eight hours' notice at least is required].

To

} Members
of the said
Burial Board.

No. 6.

Certificate to Overseers for Payment of Expenses incurred by the Burial Board.

15 & 16 Vict. c. 85, s. xix., and 16 & 17 Vict. c. 134, s. vii.

We hereby certify that the sum of _____ has been in-

curred by the burial board of the parish of _____, in the county of _____, in carrying into execution the several acts relating to burials beyond the metropolis; that is to say, for expenses in providing and laying out a burial ground under the said acts [and building the necessary chapel (or chapels) thereon]; and you are hereby authorized and directed to pay such sum out of the rates for the relief of the poor in the said parish to _____ for and on behalf of the said Burial Board.

Given under our hands at _____, the _____ day of _____, 18 ____.

To _____

} Members of the
said Burial Board
[three at least].

No. 7.

Mortgage of Poor Rates.

15 & 16 Vict. c. 85, s. xx., and 16 & 17 Vict. c. 134, s. vii.

We, the burial board for the parish of _____, in the county of _____, in consideration of the sum of _____, with the sanction of the vestry of the said parish, and with the approval of the Commissioners of her Majesty's Treasury (testified by the signatures of two of them hereunto affixed), to us advanced and paid by _____, the receipt of which said sum of _____ is hereby acknowledged, do by virtue of the powers vested in us by the acts 15 & 16 Vict. c. 85, and 16 & 17 Vict. c. 134, hereby charge the poor rates of the said parish with the payment to the said _____, his executors, administrators, and assigns of the principal sum of _____, by the instalments following, that is to say, the principal sum of _____ (being one twentieth-part of the said principal sum of _____) on the _____ day of _____ next, and the like principal sum of _____ in every succeeding year until the whole of the said first-named principal sum of _____ is discharged, together with interest on the principal which shall from time to time remain due after the rate of _____ per centum, per annum, to be payable half-yearly to the said _____, his executors, administrators, and assigns.

Given under our hands and under the seal of the burial board for the parish of _____, in the county of _____, this _____ day of _____, one thousand eight hundred and ____.

(L. S.)

No. 8.

Contract for the Purchase of Land.

15 & 16 Vict. c. 85, s. xxvi., and 16 & 17 Vict. c. 134,
s. vii.

Agreement made the day of , 18 , between A. B. of, &c., of the one part, and the burial board of the parish of , in the county of , of the other part, whereby the said A. B. agrees to sell to the said burial board, and the said burial board agrees to purchase at the price of , all, &c. [*describing the property*], which premises are required by the said burial board for the purpose of forming a burial ground for [*or for making additions to the burial ground of*] the said parish of . And it is agreed that the said purchase-money of shall be paid by the said burial board to the said A. B. on the day of next at twelve at noon at the office of , at which time and place the purchase is to be completed, and the said burial board is to have possession of the premises. And the said A. B. agrees, at his own expense, within days from this date, to deliver an abstract of his title to the solicitor of the said burial board, and to deduce a good title to the premises in fee simple free from all incumbrances. And on receiving the said purchase-money, the said A. B. and all other necessary parties, will convey the premises accordingly to the said burial board, or as they may direct.

No. 9.

Conveyance according to 8 & 9 Vict. c. 18, and to 15 & 16 Vict. c. 85, ss. xxvii., xxviii., and 16 & 17 Vict. c. 134, s. vii.

I, , of , in consideration of the sum of duly paid to me [*or, as the case may be, into the bank*], pursuant to the acts 15 & 16 Vict. c. 85; and 16 & 17 Vict. c. 134, by the burial board for the parish of , in the county of , appointed and constituted under the provisions and by virtue of the said acts, do hereby convey to the said burial board, their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said acts empowered to convey, to hold the premises to the said burial board, their successors and assigns for ever, according to the

(L. S.)

*Conveyance in Consideration of a Rent Charge according to
8 & 9 Vict. c. 18, and to 15 & 16 Vict. c. 85, ss. xxvii.
xxviii., and 16 & 17 Vict. c. 134, s. vii.*

(L. S.)

Contract for Works.

Articles of agreement, made the _____ day of _____, one thousand eight hundred and _____, between _____, (hereinafter called the contractor) for himself, his heirs, executors, and administrators of the one part, and the burial board for the parish of _____, in the county of _____, of the other part.

Whereas the said burial board [after giving fourteen days public notice expressing the intention of entering into this

contract], has accepted the tender of the said , to execute the works described in the schedule hereunto annexed, subject to the terms and provisions hereinafter expressed.

Now, the said , for himself, his heirs, executors, and administrators, doth hereby covenant and agree with the said burial board and their successors, that he the said contractor will, in a good, substantial, and workmanlike manner, and with materials sufficient and proper, of their several kinds, execute, perform, and complete all and singular the works mentioned in the specification hereto annexed, or thereby or by this contract implied, or to be reasonably inferred, in and about , according to the said specification, and to the plan, and drawings, prepared by , and according to such working and explanatory drawings and instructions as may from time to time be furnished by the surveyor for the time being of the said burial board: the several portions of the said works to be respectively finished and completed on or before the times respectively mentioned in the said specification, and the whole of the said works to be finished and completed, and to be cleared of all scaffolding and rubbish, and other impediments, on or before the day of , and the said works to be begun, proceeded with, and completed to the satisfaction of the said surveyor of the said burial board, to be testified by a writing or certificate under his hand.

That if any of the materials used, prepared, or intended to be used by the said contractor shall be considered by the surveyor for the time being of the said burial board, as unsound or improper, the said contractor will, upon notice in writing given by the said surveyor, reject and remove the same from the said ground: And in default of such rejection and removal within three days after such notice, it shall be lawful for the said surveyor to cause the same to be removed at the expense and risk of the said contractor, and all expenses thereby occasioned shall either be deducted out of any monies then or thereafter due to him from the said burial board, or shall be recoverable by them of the said contractor as liquidated damages.

That if the said surveyor shall be dissatisfied with any master, foreman, or workman, who shall be employed by the said contractor in the performance of the said works, and shall give notice in writing to that effect to the said contractor he shall, within forty-eight hours afterwards, discharge from the works such master, foreman, or workman: And if the said contractor shall neglect so to do, it shall be lawful for the said surveyor to discharge such master, foreman, or workman, and to hire and employ any other person in his stead, at the expense of the said contractor; such expense to be deducted or recoverable as aforesaid.

That if the said surveyor shall consider any part of the work unsound, or improperly executed, the said contractor, on notice in writing given by the said surveyor thereof, shall cause such work to be immediately removed, and properly re-executed, without any extra charge whatever: And if the said contractor shall neglect so to remove and re-execute such work, it shall be lawful for the said surveyor to cause the same to be removed and re-executed at the expense of the said contractor; such expense to be deducted or recoverable as aforesaid.

That if the said burial board shall think proper, at any time before the said works are completed, to make any alterations, additions, or omissions to or in the same, and their surveyor shall give written instructions, signed by him to the said contractor for such alterations, additions, or omissions; then, but not otherwise, the same shall be done or made by the said contractor: And any alterations, additions, or omissions, if the price be not stipulated in the said specification, shall be measured, or estimated and valued by the said surveyor; and the amount thereof, according to the price or value, shall be added to or deducted from the sum hereinafter mentioned.

That any loss or damage which may happen to the said works, or the materials or implements therein used during the progress of these works from any cause whatever, shall be borne and made good by the said contractor at his own expense.

That, during inclement weather, the said contractor, whenever and so long as thereto required by the said surveyor, will suspend the performance of the works, and effectually cover up and protect the same from injury by the weather.

And the said burial board do hereby for themselves and their successors, covenant with the said contractor, his executors and administrators, that the said burial board, or their successors, will pay unto the said contractor, his executors, administrators, or assigns, the sum of _____, being the price agreed upon in manner following: that is to say—the sum of _____ per cent. per month on the amount of the work done as it proceeds, the same to be ascertained by the certificate of the said surveyor, and the remainder of the said sum to be paid within three calendar months after the said surveyor shall certify that all the said erections, buildings, works, and premises have been completely erected, done, and finished to his satisfaction: And it is agreed that the certificate of the said surveyor for the time being shall be final and conclusive between the said parties as to the progress, nature, quality, or completion of the said works, and in all other matters and things relating to the premises.

That if the said contractor shall, from bankruptcy, insolvency, or any cause whatever, be prevented or delayed in proceeding with the said works, according to this contract, or

shall not proceed therein to the entire satisfaction of the said surveyor, it shall be lawful for the said burial board to rescind this contract by giving to the said contractor notice in writing, signed by their clerk or surveyor, and also to employ any other builder, workman, or other person, by contract, measure and value, day work or otherwise, to proceed with the said works, and to complete the same: And on the service of the said notice, this contract shall become void as to the said contractor; but without prejudice to any right of action which the said contractor may be subject to for any neglect in not proceeding with the said works pursuant to this contract: And the amount then already paid to the said contractor by the said burial board shall be considered to be the full value of the works executed by him, and the said contractor shall thereupon be paid such a sum only as he may be entitled to, the same to be ascertained by such certificate as aforesaid: And the materials, whether prepared or unprepared, which may be at that time on the premises, shall become the property of the said burial board without further payment for the same: And the said contractor shall not in any manner prevent, hinder, or molest the said burial board or the persons employed by them, in proceeding with and completing the said works, and using such materials as aforesaid.

That the giving to or leaving at the usual or last place of abode of the said contractor, his executors or administrators, or the giving to his or their foreman or superintendent of the works, of any notices, instructions, or drawings, to be given or furnished under this contract, shall be deemed good service, or delivery thereof to the said contractor, his executors or administrators.

That if this contract be not duly performed, the said shall pay to the said burial board the sum of , as and for liquidated damages.

In witness whereof the said contractor has hereunto set his hand and seal the day and year first above written.

Signed, sealed, and delivered by the }
 above-named , in }
 the presence of . }

The common seal of the said burial }
 board was hereunto affixed at a }
 meeting of the said board, held on }
 the day of the date }
 thereof, by , in the pre- }
 sence of . }

No. 12.

Bond for securing the Performance of Contract.

15 & 16 Vict. c. 85, s. xxxi., and 16 & 17 Vict. c. 134, s. vii.

Know all men by these presents, that we _____, are held and firmly bound to _____ in the sum of _____ of lawful money of Great Britain, to be paid to the said _____ or his certain attorney, executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves, and each of us, and any two of us, our and each of our and any two of our heirs, executors and administrators, jointly, severally and respectively, firmly by these presents: sealed with our seals. Dated this _____ day of _____, one thousand eight hundred and _____.

Whereas, by a certain contract or agreement, bearing even date with the above obligation, and made between the above-bounden _____, of the one part, and the burial board of the parish of _____, in the county of _____, of the other part, the said _____ contracted with the said burial board to execute and perform the works therein mentioned in the manner and by the time therein specified, and subject to such terms, provisions and stipulations as in the said contract or agreement are particularly mentioned and set forth, and as on reference thereto will more fully appear. Now the condition of the above obligation is such, that if the above-bounden _____, his executors or administrators do and shall well and truly perform, fulfil, and keep all and every the covenants, clauses, provisoes, terms, and stipulations in the said recited contract or agreement mentioned or contained, and on his part to be observed, performed, fulfilled and kept according to the true intent and meaning thereof, then the above bond or obligation shall become void, or else shall be and remain in full force and virtue.

Signed, sealed and delivered by the }
above-bounden _____, in the }
presence of _____ . }

No. 13.

Notice of Interment.

15 & 16 Vict. c. 85, s. xxxii., and 16 & 17 Vict. s. vii.

Sir,—You are requested to give directions that the necessary preparations may be made for the interment, in the burial ground of _____, of the body of [name in full, with de-

scription, or, if under age, name, address, and occupation of parents], who died on the day of instant [last], in the parish of . The ceremony will be performed by the Rev. , in the [consecrated or unconsecrated] portion of the ground, in the [grave space, brick grave or vault] numbered on the plan of the said burial ground [the exclusive right of burial in which has been acquired by the undersigned (for years) in perpetuity.]

I am, &c.,
A. B.

To the Clerk of the Burial Board
for the Parish of .

N.B.—This notice must be delivered between [10 and 4] at the office of the burial board days, exclusive of Sunday, prior to any interment. If the right of burial has been purchased, state for what period, and append signature of the owner.

No. 14.

Grant of exclusive Right of Burial.

15 & 16 Vict. c. 85, s. xxxiii., and 16 & 17 Vict. c. 134, s. vii.

We, the burial board for the parish of , in the county of , in consideration of the sum of , paid by , of , the receipt whereof is hereby acknowledged, do, by virtue of the powers vested in us by the acts 15 & 16 Vict. c. 85, and 16 & 17 Vict. c. 134, hereby grant unto the aforesaid the exclusive right of burial in [*here describe the particular part of the ground, or the vault or other right purchased*], being part of the burial ground provided under the said acts by the burial board aforesaid; to hold the same to the said , [his heirs and assigns for ever, or for the term of years, as may be agreed upon], for the purpose of burial, subject, nevertheless, to the payment of such fees or sums as are reserved by the said acts.

Given under our hands, and under the seal of the burial board for the parish of , in the county of , this day of , one thousand eight hundred and .

(L. S.)

REGULATIONS
OF
THE SECRETARY OF STATE
FOR

Conducting Interments in Burial Grounds provided under the Burial Acts.

I. The area of the burial ground should be under-drained to such depth and in such effectual manner as shall prevent the accumulation of water in any vault or grave therein.

II. There should be a sufficiency of roads and pathways within the burial ground to afford access to the graves, and such roads and pathways are to be constructed of hard materials, and to be properly guttered and drained in such manner that all surface water shall be carried away.

III. The whole area of the burial ground which may from time to time be used for interments is to be divided into grave spaces, in such manner that the position of every grave space may be readily distinguished.

IV. A plan of the burial ground is to be made, on which every grave space shall be marked.

V. A register of graves is to be kept, in which shall be registered every grave space in the burial ground, together with the name, age, and date of interment of every occupant of such grave.

VI. Every grave space in the burial ground is to be designated by letters or numerals, or by some other convenient marks, which shall tally with similar marks designating such grave space on the plan of the burial ground and in the register of graves.

VII. The grave space set apart for each person of the age of sixteen years and upwards shall be, at the least, 9 feet long and 4 feet wide.

VIII. The grave space set apart for each person between the ages of seven and sixteen years shall be, at the least, 7 feet long and 3 feet wide.

IX. The grave space set apart for each child of seven years of age and under shall be, at the least, 5 feet 9 inches long and 2 feet 9 inches wide.

X. Each grave shall be dug, as near as may be, in the middle of its grave space.

XI. No more than one body shall be buried in any vault or grave, except in a vault or grave purchased for the exclusive use of a family.

XII. No interment shall take place in any vault, unless the corpse be enclosed in an air-tight metallic coffin.

XIII. When more than one body is interred in any grave purchased for the use of a family, a layer of earth 18 inches in thickness, at the least, shall be left between each coffin interred therein.

XIV. No interment shall take place in the grave of any person of the age of sixteen years and upwards without a covering of earth 4 feet in thickness, at the least, measuring from the upper surface of the coffin to the ordinary level of the ground.

XV. No interment shall take place in the grave of any person between the ages of seven and sixteen years without a covering of earth 3 feet 6 inches in thickness, at the least, measuring from the upper surface of the coffin to the ordinary level of the ground.

XVI. No interment shall take place in the grave of any child of seven years of age and under without a covering of earth three feet in thickness, at the least, measuring from the upper surface of the coffin to the ordinary level of the ground.

XVII. No grave in which an interment has taken place, except it be a vault or grave purchased for the use of a family, shall be re-opened for another interment until after the expiration of stated periods of time; (that is to say,)

No grave in which a person of the age of sixteen years and upwards has been buried shall be re-opened for another interment until after fourteen years from the time when such person shall have been buried:

No grave in which a person between the ages of seven and sixteen years has been buried shall be re-opened for another interment until after ten years from the time when such person shall have been buried:

No grave in which a child of the age of seven years and under has been buried shall be re-opened for another interment until after seven years from the time when such child shall have been buried:

But, if on re-opening any grave, the corpse last interred therein shall be found undecayed, the remains shall not be disturbed, but such grave shall be filled up again with earth, and shall not be used for another interment until the complete decay of such corpse shall have taken place.

XVIII. Whenever a burial has taken place (except in a private vault), the grave shall be forthwith filled up with earth, and the surface shall be covered with fresh turf, or be planted with shrubs or other suitable vegetation, unless a monument is to be erected upon it; but in no case shall the bare earth be left exposed.

XIX. Care shall be taken that the grave spaces, monuments, roads, pathways, buildings, &c., and the whole surface of the burial ground, be kept in a proper state of neatness, and that nothing offensive to public decency be permitted within the ground.

INSTRUCTIONS FOR BURIAL BOARDS
IN
PROVIDING CEMETERIES,
UNDER THE BURIAL ACTS,
AND MAKING ARRANGEMENTS FOR
INTERMENTS,

Approved by the Secretary of State.

I. Wherever practicable a site for a proposed cemetery should be chosen in such a position that any effluvia from the ground may be carried away from the town by the prevailing winds. 1. Position of cemetery.

II. The distance of a cemetery from the outskirts of a town must depend on a variety of considerations. Where the town is rapidly on the increase, the cemetery should be placed at a greater distance than in cases where the population is nearly stationary, or increases very slowly. The distance should be greater in large towns than in small towns. Sites have been already selected by burial boards, in which the distance varies from a third of a mile to several miles, according to the size of the town. 2. Distance of cemetery.

III. Cemeteries should not be established in neighbourhoods where buildings are in progress, or are contemplated. Those neighbourhoods should be selected to which towns are least likely to extend. 3. Cemeteries should not be established in populous neighbourhoods.

IV. Where several townships or parishes unite to form a common cemetery, it should be so placed as to be convenient for the majority of the population. 4. Common cemetery should be conveniently situated.

V. No cemetery should be established near wells, or near any source, reservoir, or open conduit supplying water for domestic use. 5. Cemeteries not to be opened near wells or conduits.

VI. Care should be taken that there is a sufficient fall for drainage, to ensure dryness of the soil to the depth of seven or eight feet at least. 6. Sufficient fall for drainage necessary.

VII. Ground which is subject to periodical flooding, or which contains water springs should be avoided, as should also all ground the subsoil of which is apt to be charged with water by infiltration from rivers, streams, &c. Generally, wet soils, which do not admit of drainage should be rejected. 7. Soils wet or subject to flooding to be avoided.

8. Importance of quality of soils selected for cemeteries.

VIII. The quality of the soil is of great importance as regards economy. The best and cheapest soils for cemeteries are—

Dry, light-coloured sands or gravels.

Light, porous, dry earthy soils.

Light loamy soils, especially if mixed with sand or gravel.

Calcareous soils and marls.

Chalk.

The least favourable soils are—

Dense clays.

Soils containing alumina, iron, or other mineral impregnation.

Moor or bog earth.

Rock, or stony ground.

Dry, open, porous soils of the class first mentioned admit readily atmospheric air and moisture, both of which facilitate decay, and permit the graves to be re-opened sooner for second interments: while they absorb and diffuse the gases.

Soils should be selected which are not liable to fall in in working.

Dense clay soils are impervious to air; they retain water, which accumulates in a grave: the excess of moisture and the absence of atmospheric air in sufficient quantity retard decay to more than double the period at which it is completed in more suitable soils. Clay soils retain the gases. They are besides apt to crack in dry weather, and to permit the escape of dangerous exhalations in a concentrated form. Clays can be improved by preparing the soil used for filling up graves, and by an expensive process of deep drainage; but under any circumstances clay soils are much more expensive than many others, and should only be resorted to when there is no other choice.

Earths containing mineral substances, such as those mentioned, and bog earths, are antiseptic and preserve corpses from decay.

9. Ground should be examined before selection is made.

IX. Before the ground is fixed upon, it ought to be examined by borings to the depth of six or eight feet to ascertain its nature.

X. The extent of ground required for a parish or township cemetery depends—

10. Amount of ground required for cemeteries.

1st. On the annual number of deaths.

2nd. On the proportion of deaths of children or young persons to the total deaths of the parish or township.

3rd. On the character of the soil, and the manner of burial.

4th. On the annual increase of the population.

5th. The extent of surface devoted to each interment.

The actual amount of *burial space* may be determined approximately from these elements.

Town populations living under defective sanitary con-

ditions require a larger amount of burial space, in proportion to the number of inhabitants, than is necessary in more healthy districts. Thus, it is shown in the "Supplementary Report on the Practice of Interment in Towns" (page 130), that the space required for a comparatively healthy population in the rural parts of Herefordshire, as compared with the burial space requisite for an unhealthy population of the same number in the parish of Whitechapel would be as 7 to 12.

The annual mortality is a safer guide in determining the size of a cemetery than the amount of population. The annual mortality, however, differs remarkably as regards ages in different districts. It is shown in the same report that, in the rural districts of Herefordshire, 32 per cent. of the annual deaths take place in children and young persons under the age of fourteen, and that in Whitechapel about $49\frac{1}{2}$ per cent. of the annual deaths take place under that age. As a much smaller area of ground suffices for the grave of a child than for that of an adult, it is obvious that more space would be required to bury an annual average of 100 deaths in Herefordshire than in Whitechapel. The country cemetery would require to be about one-eighth part larger than the town cemetery, for the same number of interments.

If a dry, porous, sandy, or earthy soil be selected, such a soil, speaking approximately, would admit of being buried in at the rate of 120 interments per acre per annum (*a*).

(*a*) This may be considered as a medium number. For a town population, five or six additional interments per acre per annum could be accommodated on account of the larger number of deaths of children; and of a healthy country population, five or six interments fewer, on account of the larger average size of the grave space.

[It is manifest that the calculation here made is based simply on what is necessary for the protection of the public health and decency. There are, however, considerations of economy, of taste, and of personal feeling. The first of these will have great weight in large towns where land is extremely valuable; the latter will be more regarded in rural parishes where land is cheap, and where from the small number of funerals persons are accustomed to see another generation pass away before the remains of the last are disturbed. The question of ornamental additions to the cemetery may be pretty equal in both cases; as in towns the greater value of some extended space which may serve for a public walk or cemetery garden, is a set-off against the increased price of the land. It has, therefore, been found in practice, that no very general rule can be laid down in relation to the size of burial grounds, having regard

If a wet or clay soil be chosen, not more than 60 or 70 interments per acre per annum could take place in it. The number, however, might be somewhat increased by improving the soil in the manner already mentioned.

The amount of *burial space* could hence be easily determined for the two classes of soils. The average annual mortality of a parish or township, divided by the number of interments per acre per annum, would give the number of acres of burial space required sufficiently near for practical purposes(*a*).

If mineral and antiseptic soils are chosen, it would be next to impossible to determine the area required on any data founded on the period of decay of the corpse.

Besides the space actually required for the accommodation of the average annual interments, some allowance ought to

to soil and population alone; and the question has been determined in various proportions in different parts of the country. It may be sufficient to state, that in a favourable soil with purely sanitary and economical considerations in view, a quarter of an acre per thousand of the population would be sufficient; and that supposing feelings of delicacy as well as ornamental purposes to enter into the calculation, double that quantity would be a liberal allowance. In most cases it has been found that the larger quantity is preferred.—
AUTHOR'S NOTE.]

(*a*) The following examples of a method of calculating the amount of burial space (*of the best soils*) required for a town population and for a country population, are adapted from forms given in the Supplementary Report on the Practice of Interment in Towns, and may be useful where a close approximation to the amount of ground is wanted.

WHITECHAPEL UNION.

Pop. 1839 = 35,000.

	Square feet in grave space.	Annual Deaths.	Period for re-opening graves.	Total area in square feet.
1. Adults -	36 ×	568 ×	14 years	= 286,272
2. Young persons	21 ×	31 ×	10 „	= 6,510
3. Children	16 ×	524 ×	7 „	= 58,688
Totals		1,123		351,470

HEREFORDSHIRE UNIONS.

Pop. 1839 = 35,000.

	Square feet in grave space.	Annual Deaths.	Period for re-opening graves.	Total area in square feet.
1. Adults -	36 ×	382 ×	14 „	= 192,528
2. Young persons	21 ×	16 ×	10 „	= 3,360
3. Children	16 ×	164 ×	7 „	= 18,368
Totals		562		214,256

be made for increase of population, and sufficient ground set apart for buildings, walks, and decorative purposes. On this latter point the burial board will have to be guided by local circumstances. In some instances an addition of a sixth part has been made to the burial space for access, decoration, &c.

It may be useful to state that, in one instance, a burial board has provided forty-two acres for a population of 30,000; in another case five acres have been set apart for a population of 6,200; and in a third instance eight acres have been purchased for a town with 12,500 inhabitants. The burial board of the City of London has provided ninety-one acres for a population of 130,000, with an annual mortality of about 3,120. It would be well on many accounts that a large view of the question should be taken, and a sufficient area provided for any contingency that might arise, and such is evidently the view on which several boards have already acted.

XI. Drainage has a material influence in rendering a soil more suitable for interments. Porous soils with a good natural drainage require little outlay, except what may be requisite to ensure dryness of the surface and of the roads and pathways. 11. Drainage of the site.

Where denser soils, especially loams or clays, are selected, works of drainage are required, not only to improve the character of the soil, but to prevent water accumulating in the graves and vaults.

It has happened that from neglect of suitable precautions in this respect, corpses have been found floating in family vaults many years after they were buried.

Loose soils may be sufficiently drained by small drain tiles laid below the level of the bottom of the graves. These might be united into branches laid at a suitable depth beneath the paths and roads, and so to the outlet, which should be carried to such a point in the natural outfall that no injury may take place from the pollution of water used for domestic purposes. The distance of the lines of drain pipes from each other would vary with the nature of the soil. They would have to be placed closer together in dense than in porous soils. The distance might advantageously be fixed at some multiple of the length or breadth of the grave spaces.

In cases where, from local circumstances, no proper fall for drainage can be obtained, the ground might be drained by pumping, as is the case in a cemetery at Hull.

When clay soils are used, there is no way of draining the ground satisfactorily except by deep drainage below the lowest point of the grave, and by connecting each grave with the drain.

This has been effected in clay cemeteries by carrying a deep sewer through the ground, and beginning the interments close to the line of the sewer. Some broken stone or a drain tile is laid in the bottom of the grave, so as to leave a passage

for the water to the sewer. The layers of stone or the tiles in the first series of graves are again connected with similar layers of stone or tiles in the second series, and so on with the third and succeeding series, and in this way the surface water, which would have otherwise accumulated in the graves, is removed. The passage of air through the broken clay soil filling the grave is facilitated, and the soil is gradually improved.

It has been stated that in a clay soil treated in this manner, decay has taken place in half the time it would otherwise have done.

12. Improvement of clay soils.

XII. In some clay cemeteries it has been customary to remove all the clay as soon as the grave has been dug, and to replace it by a more porous soil, which is used for filling up the grave.

It has also been proposed to mix burnt clay with the unburnt portion, or to sun-dry a quantity of the clay to be kept in reserve in a suitable part of the ground, and to be used for filling up the graves.

By the use of these methods it is possible to render clay grounds more suitable for burial than they are naturally. The absence of such precautions has led to the voluntary abandonment of clay burial grounds after considerable expense had been incurred in providing them.

13. Roads and pathways to be constructed of hard materials and properly drained.

XIII. As funerals take place at all seasons and in all states of the weather, and as mourners, not unfrequently predisposed to disease, are necessarily exposed to the influence of these conditions, it is of obvious importance that the roads and pathways leading to the graves should be constructed of hard materials, and so laid down as to have a good surface drainage. There should also be provision for the removal of surface water by small trapped gulley shoots communicating with the drains underneath.

14. Fencing of burial grounds.

XIV. The best fencing for a burial ground is an open iron railing on dwarf wall, or a sunk fence. High walls are quite unnecessary; they increase the cost of the ground, interfere with the ventilation, and cut off any points of view which it might be desirable to preserve.

15. Planting of burial grounds.

XV. The use of suitable vegetation in burial grounds is advantageous as regards the public health, the economic use of the ground, and ornament.

Experience has shown that decay takes place sooner in a grave near certain fibrous rooted trees. In such situations it has been known to take place in about two-thirds of the time that has been required in the same burial ground beyond the influence of the tree roots.

Vegetation also absorbs the gases arising from decomposition, and diminishes the amount of them which would otherwise escape into the atmosphere.

For ornamental purposes the use of vegetation is obvious.

The best of all vegetation is grass, and great attention should be bestowed on keeping it in good condition.

Fresh turf is by far the most suitable covering for graves, unless they be planted with shrubs or flowers, and care should be taken to have a constant supply of it for laying down on a grave immediately after the interment.

There are certain shrubs and trees which have been found most suitable for cemeteries.

“Mr. Loudon recommends for planting in cemeteries trees chiefly of the fastigate growing kinds, which neither cover a large space with their branches, nor give too much shade when the sun shines, and which admit light and air to neutralize any mephitic effluvia. Of these, there are the oriental arbor vitæ, the evergreen cypress, the Swedish and Irish juniper, &c. For the same reason, trees of the narrow conical forms such as the red cedar, and various pines and firs are desirable. In advantageously situated cemeteries some of the larger trees, such as the cedar of Lebanon, the oriental plane, the purple beech, the dark yew, and the flowering ash, sycamores, mountain ash, hollies, thorns, and some species of oaks, such as the evergreen oak, the Italian oak, with flowering trees and shrubs, would find places in due proportion” (a).

It is of importance that trees and shrubs should not cover too large a portion of the burial ground, and that they should not be too closely planted, so as to interfere with the ventilation and with the sweep of the winds.

A suitable disposal of trees or shrubs along roads or pathways would afford shelter to persons visiting graves, or to funeral processions.

The size of the trees or shrubs selected should bear a proportion to the extent of the burial ground.

A suitable proportion of evergreens is needful to prevent the burial ground from becoming bare in winter.

XVI. It is customary in the best regulated cemeteries not to bury the dead close to the boundary fence.

On many accounts this is advisable, as there is no law to prevent houses being built and wells sunk close to the ground. There is moreover a disposition to erect houses in the vicinity of ornamental cemeteries, and this practice has already endangered the public health from cemeteries in which interments are not conducted under suitable regulations. Much of the evil may be prevented by draining the ground in such a manner as to prevent the water passing into the subsoil of the neighbourhood, and by the adoption of proper regulations as to burial; but it would nevertheless be advisable to leave a space, a few feet or yards in width according to the size of the cemetery, between the fence and

16. Interments should not take place too close to the cemetery boundary.

(a) Supplementary Report on the Practice of Interment in Towns.

the nearest graves. This strip of ground would not be wasted, for part of it might be used as a walk, and part for ornamental shrubs. In perfectly open country districts where there is little or no chance of a cemetery being surrounded by houses, it would not be necessary to set apart such a belt of ground, at least so far as the protection of the public health might be concerned.

17. Area of
grave space.

XVII. The area to be set apart for each grave is a subject of great importance. It varies remarkably in different countries, and in different burial-grounds in this country. The smallest area in use is that commonly adopted in overcrowded graveyards; namely, a space no more than sufficient to hold the coffin, which, when deposited in the grave, touches adjoining coffins with its sides and ends.

About 18 square feet is the usual space under such circumstances, and it is very much smaller than the space set apart in any other country.

The largest space in use is in some parts of Austria where the regulations prescribe 90 square feet as the area for an adult grave.

In some German cemeteries the grave space is about 50 square feet. In the best regulated churchyards and burial grounds in England it varies from 32 to 40 square feet, but these are only few in number. In the great majority of instances it has been necessary to reduce the area to the smallest possible space on account of the rapid increase of the population in proportion to the burial area available.

The most obvious result of this circumstance has been that the soil of burial grounds in towns has become a mass of corruption.

The proper area for a grave space may be determined by the following considerations :

- 1st. It should be large enough to admit of the grave being dug without risk of the sides falling in and exposing the coffins in adjoining graves.
- 2nd. It should be large enough to prevent any monument that may be erected from being thrown down or displaced by subsidence of the earth in digging an adjoining grave.
- 3rd. It should present a sufficient amount of surface to admit of the free access of the air through the soil to the top and sides of the coffin.
- 4th. It should ensure that for each interment there is a sufficient cubic space of earth for the absorption of the gases generated during decomposition and for their gradual diffusion in the atmosphere, or absorption by vegetation.

Placing graves too closely together prevents the accomplishment of these objects, and the result may be seen in many churchyards in the condition of the monuments, which are not unfrequently inclined in all directions from their original position, or entirely ruined.

The result of overcrowding in so far as regards the economical use of the ground is, that the soil becomes saturated with organic matter, and that decay of the coffin and corpse which is requisite before a grave should be re-opened is delayed. Entire skeletons of corpses too closely crowded together have been disinterred after the lapse of 23 years, even in a good soil. The use of a bone-house to accumulate undecayed bones has arisen from saturating the soil with organic matter.

The best experience abroad, as well as in this country, appears to indicate that each grave space should consist of the area in which the coffin is deposited, and about a foot of earth all round that area: which would give about thirty-six square feet as the grave space for a medium-sized adult grave. The grave space for young persons would be about twenty-one square feet, and that for children about sixteen square feet.

XVIII. The depth of a grave, and the thickness of soil placed over a coffin have a material influence on the period of decay of the corpse, and also on the salubrity of the cemetery as a place of public resort. 18. Depth of graves.

In burial grounds where it has been the custom to cover the coffin with only a foot or two of earth, the effluvia escape readily, and can be smelt in the atmosphere even at some distance.

On the other hand, when a coffin is covered with ten or twelve feet of earth, the ingress of air is so interfered with that the period of decay is lengthened very considerably.

To prevent both occurrences, it appears to be the result of experience that a covering of four feet of earth over an adult coffin answers every purpose.

If a greater depth be required it necessitates a much longer delay in re-opening the ground and consequently entails more expense.

A depth of three feet six inches of earth would be a sufficient covering for the coffin of a young person, and a covering three feet in depth would be enough for the coffin of a child.

XIX. A fundamental principle of interments is that no more than one body be buried in any grave at one time. 19. No more than one body should be buried

This principle is founded both on reason and experience. It is the only one which meets the requirements of public health and public decency, and which at the same time permits the usage of the ground in perpetuity.

There are towns and districts in England that have adopted it from time immemorial, and, in some instances, it is the custom never to re-open a grave which has been buried in. On the other hand, in many large towns where the cemetery space has been too small, it has been the custom to dig deep graves and fill them up with dead. This has especially been the case where burial has been made a matter of traffic, and

in some instances as many as 50, 100, and 200 bodies have been deposited in a pit. In one such example the interments have been at the rate of above 80,000 per acre.

Ground which has been crowded with dead cannot be again used for interments until after a long period of time, and it is hence virtually lost, or taken away from the area of the cemetery.

If even two or three corpses be buried in the same grave, the period of decay of the lower ones is so much lengthened that the grave could not be re-opened till after two or three times the number of years which would be requisite for the dissolution of a single corpse.

On the ground of public decency, nothing is more unseemly than crowding the dead of a number of families into the same grave or pit, and it is a practice that has given rise to just cause of complaint on the part of the poor.

20. Exception in respect to family graves and vaults.

XX. If any exception in the application of these principles be admissible, it is with respect to family vaults and graves. These private burial places, though used to a considerable extent in many parts of the country, are by no means universally adopted. They not unfrequently lead to acts of desecration. Their use has been promoted for pecuniary reasons, but there are still parts of the country where the dead of families are as far as possible buried side by side, instead of being placed in the same grave.

21. Use of family burial plots should be encouraged, in place of family graves.

XXI. The burial boards might encourage this practice by disposing of family plots of ground in place of graves. This is already done in some burial grounds, and it is matter of absolute regulation in the cemetery at Frankfort-on-the-Maine. The grave spaces included in the family plot of ground are used alternately, and thus the risk of injury is avoided.

22. Precautions to be adopted where family vaults or graves are permitted.

XXII. The use of a single vault or grave for the interment of different members of the same family has become a custom in many localities, and one which it will be necessary to allow under such restrictions as shall protect the public health from injury. In regard to vaults not filled up with earth after each interment, it will be necessary that strong, impervious, metallic coffins be used.

In family graves eighteen inches of earth, at least, should be left between each coffin buried.

Corpses already interred in any family grave should never be exhumed for the purpose of enlarging or deepening such grave.

23. Graves not to be re-opened until decay is completed.

XXIII. No grave which has once been buried in ought to be reopened for a second interment until the decay of the coffin and corpse has been so far completed that nothing is left except perhaps a few fragments of the harder portions of the bones.

XXIV. The number of years required for effecting this change is influenced by a variety of circumstances, such as the nature of the soil, the depth of the grave, the wood of the coffin, temperature, moisture, the age of the interred, &c.

24. Circumstances influencing the period of decay.

Recent inquiries have shown that under the most favourable and, perhaps, exceptional circumstances as to soil, drainage, &c., an adult coffin with its contents will have disappeared in eight or ten years in this climate; while in wet clay ground, at ten feet from the surface, and with unsuitable wood for the coffin, decay has not touched even the coffin, after the lapse of a century.

Time when decay is usually completed.

XXV. Considering the great variety of circumstances under which cemeteries will no doubt be formed under the acts of parliament, and the difference of soils in different localities, it would be impossible to fix a term for re-opening graves suitable in every case. In some cases it would be too short, and in others unnecessarily long.

25. No general rule as to period of decay can be given.

XXVI. The principle to be kept in view is that already stated, that no grave should be disturbed until the coffin and corpse have disappeared by decomposition.

26. Principle to be observed in re-opening graves.

XXVII. This event would probably take place in twelve or fourteen years in the better class of soils; and not in less time than twenty or twenty-five years for wet or clay soils.

27. Time when graves might probably be re-opened in different soils and for different ages.

Assuming the adult ages at sixteen years and upwards, a period of fourteen years would be applicable for re-opening adult graves in a good soil.

For young persons between the ages of five and sixteen years, the period for re-opening may be fixed at ten years, and for infants under five years, at one-half the time required for adults.

These periods are, however, subject to a condition rendered necessary by diversities of soil, &c., that if on re-opening a grave the remains previously interred be found undecayed, the grave should be again filled up.

XXVIII. In order to give effect to these precautions, it is necessary that the portion of the cemetery which may from time to time be devoted to interments, should be divided into grave spaces of *not less* than the following dimensions, namely:—

28. Dimensions of grave spaces for different ages.

For adults, nine feet long, by four feet wide.

For young persons, seven feet long, by three feet wide.

For children, five feet nine inches long, by two feet nine inches wide.

XXIX. Each grave space should be marked on the ground by a letter, numeral, or by some other convenient sign.

29. Each grave space to be marked on the ground, and on a plan and register.

A plan of the cemetery should also be made, in which every grave space should be marked.

A register of graves is also requisite, in which should be entered all the grave spaces, together with the date of every

interment, and the name and age of each occupant of a grave.

Every grave space should be marked on the plan and in the register by marks corresponding with those on the ground.

A grave should be dug as near as may be in the middle of the grave space.

30. Grave to be filled up immediately after interment.

XXX. Every grave should be filled up with earth to the surface of the ground immediately after the interment of the coffin.

31. Grave to be covered over after interment.

XXXI. The surface of each grave should be covered with fresh turf, or planted over as soon as possible after the interment; all superfluous earth should be removed, and the surface of the ground should be restored to its usual condition.

It is undesirable to raise a high mound over the grave, as is generally practised at present. Such mounds are unsightly; when too large they act in the same manner as if the grave had been dug deeper, and retard decay by obstructing the ingress of air. They should be made no higher than is necessary to provide for the sinking of the earth, which when completed should restore the grave space to its natural level.

The use of grave mounds as marks is unnecessary, as the site of every grave should be marked in the manner already mentioned.

Various methods are in use for covering grave spaces; sometimes they are surrounded by a light railing and have shrubs or flowers planted on the surface; at others a narrow border of stone is used, and the ground within it is planted.

Vaults are generally covered by monuments or by flat stones, but the use of flat stones for graves should be discouraged. They retard decay for nearly three times the period that would be requisite if the grave were covered with turf or planted.

By far the most suitable covering is either grass or small shrubs and flowers. Vegetation of this character does not interfere with the ventilation of the burial ground, and it absorbs a large part of the gases resulting from decomposition.

32. Importance of the quality of the wood used for coffins.

XXXII. The quality of the wood used for coffins has an important influence on the period within which a grave can be re-opened. Coffins made of resinous pine, oak, or hard woods, generally decay very slowly, while those made of common deal, elm, or other light porous woods, decay rapidly.

Hard wood coffins last three or four times as long as those of common deal, and would hence occupy the grave for a much longer period. To show the importance of this in an economical point of view, it may be stated that if a town require a cemetery ten acres in extent to bury its dead in perpetuity, in deal coffins, it would be necessary to provide for

the same town about thirty acres of surface to bury its dead in hard wood coffins.

XXXIII. There is no greater disfigurement to a burial ground than large unsightly headstones. No expense incurred in rendering a ground attractive can be well laid out so long as such stones are used. This is so evident that in many of the more recently opened burial grounds considerable attention is paid to the form and size of the headstones. There is no necessity for making headstones high; they should be of small dimensions and of appropriate shape. Burial boards would do well to direct their attention to this subject, and indeed to the whole subject of funeral monuments, with the view of obtaining suitable designs.

33. Importance of improvements in monuments.

XXXIV. It is highly probable that in large cities and towns some arrangement will have to be made for the removal of the dead to cemeteries placed at a distance. The substitution of extramural sepulture for the existing practice will in some cases necessitate a larger outlay for the removal of the dead than is at present incurred. The increase of expense, though no object to the wealthier classes of society, may become considerable to the working classes, and may cause the retention of the dead in crowded dwelling-houses for a longer period than is consistent with health.

34. Necessity of burial boards making arrangements for facilitating interments.

XXXV. Section 41 of the act provides for this contingency, by enabling burial boards to make arrangements for facilitating the conveyance of the dead from the place of death to the burial ground, and it also enables cemetery companies to make similar arrangements, in each case subject to suitable regulations under the act.

35. Burial boards enabled to make such arrangements.

XXXVI. Arrangements are partially in use at present which appear to indicate the means of accomplishing the object in view. Sometimes a vehicle combining the hearse and omnibus is used, and there is sometimes a separate omnibus conveyance for the mourners to follow the hearse.

36. Improved arrangements already in use.

XXXVII. Funeral processions in the streets and crowded thoroughfares of large cities and towns should be discouraged. They detract from the solemnity of burial; they interfere with street traffic; they expose mourners to the gaze of passers by, and they add to the cost. Funeral processions should begin and end within the cemetery. The transit from the house to the cemetery should be accomplished without loss of time.

37. Funeral processions in crowded streets should be discouraged.

XXXVIII. Water conveyance, where obtainable, might also be advantageously adopted. A burial board has already provided a cemetery beside a canal, of which they intend to make use if they require it.

38. Water conveyance.

XXXIX. Railway conveyance affords an economical means of removing the dead, and is about to be used in two or three instances. It has the advantage of enabling cemeteries to be placed at a greater distance without materially

39. Railway conveyance.

increasing the expense of conveyance. The exigencies of the usual traffic would probably render it necessary to remove the dead together with the mourners, at a specified hour, which would also diminish the cost. In making use of railways it would be necessary to ensure precision of arrival of the corpses and mourners at the station from different districts. If a reception house were constructed at the terminus the dead might be brought to it before their removal by rail. A special carriage for the reception of the coffins would have to be provided for the railway.

40. Utility of a common service at the cemetery.

XL. In some instances arrangements may be made for conducting a number of interments together, and for having a common funeral service. In such cases special provision will have to be made for the free ventilation of the chapel, and to provide sufficient accommodation for mourners.

41. Utility of reception houses.

XLI. The use of a reception house would materially assist in the removal of the dead in certain cases.

42. Burial boards may provide reception houses for the dead.

XLII. Section 42 of the incorporated clauses of the Metropolis Burials Act, gives power to the burial boards, with the approval of the vestries, to provide places for the reception and care of bodies previous to interment.

43. Reception houses in use abroad.

XLIII. The use of such reception houses for the dead is common in the German cities, where they are intended to prevent injury to the health of the survivors by the undue retention of the corpse, and in some cases to prevent premature burial.

44. Circumstances which point out the necessity of reception houses.

XLIV. The cases where these reception houses would be advantageous for the health of the community, are thus indicated in the Supplementary Report on the Practice of Interment in Towns. "In a large proportion of cases in the metropolis, and in some of the manufacturing districts, one room serves for one family of the labouring classes: it is their bedroom, their kitchen, their washhouse, their sitting-room, and their dining-room; and when they do not follow any outdoor occupation, it is frequently their workroom and their shop. In this one room they are born, and live, and sleep and die, amidst the other inmates." From a statistical inquiry instituted and carried out at the expense of the Earl of Harrowby by Mr. Weld, secretary of the Statistical Society, "it appeared that 1,465 families of the labouring classes (in the inner ward of St. George's, Hanover Square) had for their residence 2,175 rooms and 2,510 beds."

Similar conditions prevail very extensively, as has been shown by evidence collected from all parts of the country, and given in the "Report on a General Scheme of Extramural Sepulture."

When death takes place in these overcrowded living-rooms the corpse is laid out and kept, until the period of interment, among the inmates of the room. It is sometimes stretched out on two chairs; or it occupies the only bed in the room:

the inmates pursue their avocations around it: they eat beside it: the children play beside it: oftentimes the corpse is in an advanced state of putrefaction before it is removed for burial: offensive putrid effluvia are disengaged, and the spread of disease in consequence is no unfrequent occurrence. This is especially the case with infectious diseases.

During epidemics all these evils are of course greatly aggravated. Overcrowded living-rooms furnish the largest number of attacks and deaths, and there is the greatest risk of the dead being unduly retained among the living under the very circumstances where danger from such detention is the greatest. Instances are given in the report already cited of two and even three corpses lying in the house at the same time during the prevalence of the epidemic cholera of 1848-9 (a).

XLV. The object of section 42 of the act is to enable reception houses for the dead to be provided wherever the local circumstances similar to those mentioned may appear to render such provision necessary. The use of these houses is optional, on the part of the people; and hence it would be advisable, wherever they are established, to make them attractive both in external appearance, and in internal arrangements, and to conduct them in such a manner as may induce the people to use them.

45. Use of reception houses optional, and the consequent necessity for making them attractive.

XLVI. The architecture should be of an ecclesiastical character, and yet distinctive of the object of the building.

46. Character of the architecture.

XLVII. The internal walls and flooring should be covered with an impervious material which would admit of being easily washed and cleansed, without interfering with the current use of the building.

47. Materials for walls and floors should be impervious.

Glazed encaustic tiles would form the best and cheapest material for the purpose, as well as affording a ready means of ornament.

XLVIII. There should be suitable supports of galvanized iron, or of some similar material on which to place the coffins; and these supports should be so arranged as to prevent the appearance of crowding or packing the coffins together.

48. Supports for the coffins and their arrangement.

XLIX. There should be a plentiful supply of fresh air, so as to keep up a constant and thorough ventilation.

49. Abundant ventilation necessary.

L. The lighting of the interior should be arranged in such a manner as to be in conformity with the style of architecture and the uses of the structure.

50. Lighting of the interior.

LI. In certain forms of the reception house the interior might be divided into separate crypts or chapels, to ensure the requisite privacy to persons desirous of visiting the remains of relatives.

51. Reception house may be divided into separate crypts or chapels.

(a) Report on a General Scheme of Extramural Sepulture, p. 162.

52. Arrangements necessary for removing corpses to and from the reception houses.

53. Position of reception house to be determined by local circumstances.

54. A register of bodies deposited to be kept.

LII. Arrangements would have to be made by the burial board for the removal of corpses from dwellings to the reception house; for their care and decent treatment while deposited therein, and for their removal thence to the cemetery.

LIII. The local position of reception houses would be determined by circumstances. In large cities, such as the metropolis, a number would probably be needed in places convenient for the population requiring them, and for the situation of the cemetery. Where removal of the dead to a distance by railway is necessary, the most convenient position for the reception house would probably be near the terminus. In certain cases it might be most convenient to have the reception house within the cemetery.

LIV. The person in charge of the reception house should reside close to it. He would have to keep a register of the corpses deposited, and to conform strictly to the regulation for preserving the building in a clean and well ventilated condition, and for ensuring a decent and respectful treatment of the remains of the dead.

The following TABLES will afford Specimens of the FEES which have been adopted by some Boards formed under the Burial Acts.

No. 1.—[POP. above 11,000.]

TABLE of FEES and PAYMENTS fixed and settled by the ——— Burial Board to be received for Interments, Vaults, Graves, and otherwise, in the Burial Ground for the Parish of ———, pursuant to the Burials (beyond the Metropolis) Act, 1853.

	For the Board.	For Incumbents in Consecrated Ground.	For officiating Ministers in Unconsecrated Ground.
	£ s. d.	£ s. d.	£ s. d.
On interment of parishioners in a common grave (if corpse not taken into chapel) ..	Free.	Free.	Free.
The like if carried into chapel	Free.	0 5 0	0 5 0
On interment in a common grave of out-parishioners dying in the union workhouse, or otherwise in the parish, if corpse not taken into chapel	0 10 0	0 6 8	0 6 8
The like if carried into chapel	0 10 0	0 11 8	0 11 8
For a vault in perpetuity to contain four corpses abreast, not exceeding 9 feet deep	4 4 0	4 4 0	4 4 0
The like, three corpses abreast	3 3 0	3 3 0	3 3 0
The like, two corpses abreast	2 2 0	2 2 0	2 2 0
If more than 9 feet deep, per foot extra ..	1 1 0	—	—
For a bricked or boarded grave for one corpse only, not exceeding 9 feet deep	1 1 0	1 1 0	1 1 0
For re-opening a vault or brick grave ..	0 10 0	—	—
For interments in select situations	1 1 0	—	—
Entry in register of vault or grave in perpetuity	0 2 6	—	—
Certificate thereof	0 2 6	—	—
For erecting a headstone	0 10 6	0 10 0	0 10 0
For erecting a footstone	0 3 6	—	—
For every additional inscription on any stone	0 2 6	—	—
For erecting or placing a coffin-shaped tomb, or flat stone, or stone, slate, or wood enclosure over a grave, not exceeding 18 inches high (without palisades)	1 1 0	1 1 0	1 1 0
For erecting any other tomb, or stone, or palisades only, not exceeding 8 feet by 4 feet ..	2 2 0	1 1 0	1 1 0
The like, not exceeding 10 feet by 8 feet ..	4 4 0	1 1 0	1 1 0
For enclosing any tomb or stone with palisades any space not exceeding 8 feet by 4 ft. (extra)	1 1 0	—	—
The like, not exceeding 8 feet square (extra)	2 2 0	—	—
On erecting any mural monument in chapels, not exceeding 3 feet by 2 feet	5 5 0	5 5 0	5 5 0
For an extra size, subject to agreement.			

No. 1—(continued).

	For the Board.		
	£	s.	d.
FOR SEXTON'S FEES.			
For digging and filling in a grave for a person buried at the expense of the parish or union, and tolling bell	0	2	6
For digging and filling in a common grave for an artizan, labourer, his wife or child, 3s. ; tolling bell, 1s.	0	4	0
For digging and filling in a common grave for any gentleman, or tradesman, or master of business, his wife or child, 5s. ; tolling bell, 2s. 6d.	0	7	6
Every grave to be 6 feet deep ; if above, per foot extra ..	0	1	0
For digging, excavating, and levelling ground over a vault for two corpses abreast, 9 feet deep, and attending burial ..	2	2	0
For every additional corpse	0	7	0
For filling up and turfing a grave when required	0	2	0
For tolling chapel bell, if above one hour, extra, and so on in proportion	0	1	0

FOR HAND-HEARSE.

For the use of a hand-hearse within two miles from the burial-ground (without attendants) at the burial of a child under ten years of age at the expense of the parish or union ..	0	1	6
The like for an adult labourer	0	2	6
The like for a tradesman or any other person	0	5	0
If buried in a brick or walled grave or vault	0	7	6
For every mile, or part of a mile, beyond two miles, extra ..	0	1	0
For searching register of burials one year	0	1	0
For every additional year	0	0	6
For each certified copy of an entry therein	0	2	6

All walls of vaults to be 9 inches thick, and every wall between two vaults to be a party wall: all damage to any boundary wall, by making a vault or grave, to be substantially repaired by the party causing the same.

All inscriptions and plans of monuments, tablets, and stones, to be erected in the cemetery or chapels, to be submitted to the board for its approval.

On interments of non-parishioners, all fees and payments (except the 3rd and 4th in this table) to be charged double.

The foregoing fees do not include the parish clerk's fees.

By order of the Board,

[Date.]

—, Clerk.

No. 2.—[POP. under 5,000.]

BURIAL BOARD, constituted under and by virtue of the Burials Acts, 16 & 17 Vict. c. 134, and 17 & 18 Vict. c. 87, for the Borough of ———.

	For the Board.	For Incumbent in Consecrated Ground.	For officiating Minister in Unconsecrated Ground.
	£ s. d.	£ s. d.	£ s. d.
Interment of any person, whether child or adult, at the expense of the parish or union	—	0 1 0	0 1 0
Interment of any other person, being a parishioner	0 5 0	0 2 6	0 2 6
If a non-parishioner	0 10 0	0 6 8	0 2 6
Interment in a brick grave, not exceeding 9 feet by 4 feet 6 inches, 10 feet deep, not in perpetuity, site approved by the board ..	2 10 6	3 3 0	0 10 6
For a brick grave, not exceeding 9 feet by 4 feet 6 inches, 10 feet deep, in perpetuity, site approved by the burial board	1 1 0	—	—
For a double brick grave or vault, not exceeding 9 feet by 8 feet, 10 feet deep, not in perpetuity, site approved by the burial board, including fee on first interment ..	5 5 0	3 3 0	—
If in perpetuity, extra	1 1 0	—	—
Fee on interment in a vault or brick grave, re-opened for a parishioner	1 1 0	0 10 6	0 10 6
If a non-parishioner	2 2 0	1 1 0	0 10 6
Erecting a headstone	0 10 6	0 10 6	—
Placing a flat stone over a grave	1 1 0	1 1 0	—
Erecting a tomb over a brick grave or vault	3 3 0	3 3 0	—
Inclosing with palisades a single grave or vault	1 1 0	2 2 0	—
Ditto a double grave or vault	2 2 0	2 2 0	—
For erecting a mural monument in mortuary chapel, not exceeding 24 inches by 18 inches	5 5 0	—	—
For every additional inscription on any headstone, tomb, or memorial	0 5 0	—	—
For certificate of registry of grant of vault or brick grave	0 2 6	—	—
For searching registry of burials, one year ..	0 1 0	—	—
For ditto, every additional year	0 0 6	—	—
For each certified copy of entry	0 2 6	—	—
If the interment should take place out of the regulated hours, an additional fee of ..	0 2 6	0 2 6	0 2 6
Interment of still-born child	0 2 6	—	—
For digging a common grave	0 7 6	—	—
For tolling bell of parish church, if ordered	0 2 6	—	—

No. 3.

[POP. above 4,500.]

TABLE of FEES and PAYMENTS in respect of Interments in the Cemetery at ———, in the Consecrated or Unconsecrated Ground. Established under the Statute 16 & 17 Vict. c. 134, and the Acts incorporated therewith. Opened 1st December, 1854.

Interments of Parishioners (graves 6 feet deep) :

							£	s.	d.
Ground A. to B.	..	..	..	..	..	..	1	10	6
Ground B. to C.	..	..	..	..	..	..	1	0	6
Ground C. to D.	..	..	..	..	..	..	0	13	6
For every foot after 6 feet, and down to 9 feet, an addition per foot of	..	..	..	..	..	..	0	1	6
For every foot after 9 feet, an addition per foot of	..	..	..	..	..	..	0	2	6

Non-parishioners (same depth) :

Ground A. to B.	..	..	..	..	..	..	2	10	2
Ground B. to C.	..	..	..	..	..	..	1	15	2
Ground C. to D.	..	..	..	..	..	..	1	4	8
For every foot after 6 feet, and down to 9 feet, an addition per foot of	..	..	..	..	..	..	0	1	6
For every foot after 9 feet, an addition, per foot, of	..	..	..	..	..	..	0	2	6

Children, Parishioners, and Non-parishioners :

From 1 year up to 12 years	..	..	..	..	..	..	0	9	6
Infants	..	..	..	..	..	..	0	7	0

Erection of Grave-stones, Monuments, &c. :

A charge of 15s. will be made in addition to the above when any grave, head, body-stone, or monument is erected; and any additional ground beyond two feet six inches in width will be charged at the rate of 6s. a foot, over and above and in addition to the surplice and other fees for the stones.

Fee for tolling the bell (if required), 1s. in addition to the above.

No. 3—(*continued*).

Hours of interment in the consecrated or unconsecrated ground, nine o'clock a.m. to six o'clock p.m. from the 25th of March to 29th September, and from the 29th September to 25th March, nine o'clock a.m. to four o'clock p.m. Interments on Sundays will be taken at the following hours only: for the consecrated ground, at two o'clock p.m.; for the unconsecrated ground, at one o'clock p.m.; at which hours respectively the funeral procession must be punctually on the ground.

Orders for funerals must be given to the sexton two clear days (exclusive of Sunday) before the funeral, and all fees and charges must be paid at the time the order is given.

By order of the Board,

_____, Clerk.

By resolution of vestry of the inhabitants of this parish, this board is authorized to pay to the dissenting minister officiating at funerals the same amount or fee as that payable to the incumbent in respect of church funerals.

[Date.]

_____, Clerk.

(*Explanatory Table.*)

No. 3—(continued).

EXPLANATORY TABLE of FEES, showing the Apportionment.

	Vicar's Fees.		Sexton's Fees.		Clerk's Fees.		Total.		Board's Charges for Opening the Ground.		Total Charge for Interment.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.
Interments of Parishioners (graves 6 feet deep:												
Surplice fee, ground A. to B.	0	3 0	0	6 6	0	1 0	0	10 6	1	0 0	1	10 6
„ ground B. to C.	0	3 0	0	6 6	0	1 0	0	10 6	0	10 0	1	0 6
„ ground C. to D.	0	3 0	0	6 6	0	1 0	0	10 6	0	3 0	0	13 6
Non-parishioners (same depth):												
Vicar's fee for breaking the ground,												
A. to B.	0	6 8 8	0	6 6	0	1 0	1	0 2	1	10 0	2	10 2
Surplice fee	0	6 0 0	—	—	—	—	—	—	—	—	—	—
The like, B. to C.	0	12 8	0	6 6	0	1 0	1	0 2	0	15 0	1	15 2
The like, C. to D.	0	12 8	0	6 6	0	1 0	1	0 2	0	4 6	1	4 8
Children, Parishioners, and Non-parishioners:												
From 1 year up to 12 years	0	3 0	0	4 0	0	0 6	0	7 6	0	2 0	0	9 6
Infants	0	3 0	0	2 0	0	0 6	0	5 6	0	1 6	0	7 0

No. 4.—[POP. under 170,000.]

TABLE of FEES *determined on by the* BURIAL BOARD of ———.

CHARGES AND FEES:

Interments of Parishioners :

						£	s.	d.
1st class (adults)	..	..	..	..	..	..	2	2 0
2nd class (adults)	..	..	..	..	..	..	1	5 6
3rd class (adults)	..	..	..	..	..	..	0	15 0

Interments of Non-parishioners :

1st class (adults)	..	..	..	..	..	..	3	3 0
2nd class (adults)	..	..	..	..	..	..	1	17 6
3rd class (adults)	..	..	..	..	..	..	1	2 6

The above charges, in all cases, provide for the tolling of the bell.

A deduction of one-third of the interment fees is allowed for children under 12 years of age.

Fees payable to Vicar from each Interment:

1st class.	In each adult interment	..	..	..	..	0	6	0
"	" child's "	..	..	..	..	0	4	0
2nd class.	" adult "	..	..	..	..	0	4	8
"	" child's "	..	..	..	..	0	3	1½
3rd class.	" adult "	..	..	..	..	0	4	2
"	" child's "	..	..	..	..	0	2	9½

Fees payable to Church Trustees:

1st class.	In each adult interment	..	..	..	..	0	12	0
"	" child's "	..	..	..	..	0	8	0
2nd class.	" adult "	..	..	..	..	0	5	0
"	" child's "	..	..	..	..	0	3	4
3rd class.	" adult "	..	..	..	..	0	2	6
"	" child's "	..	..	..	..	0	1	8

Charges for Ground for private Graves or Vaults for Parishioners or Non-parishioners, in addition to the Interment Fees:

For a single private grave, 6 ft. 6 in. by 2 ft. 6 in. in the clear of brickwork, and 7 ft. deep, with the right of placing a flat or head stone	..	..	..	..	..	3	3	0
For a double private grave, 6 ft. 6 in. by 4 ft. in the clear, and 9 ft. deep	..	..	..	..	..	5	15	0
For a private grave, 6 ft. 6 in. by 6 ft. 6 in., and 9 ft. deep	..	11	11	0				
For a private grave, 6 ft. 6 in. by 9 ft., and 9 ft. deep	..	15	15	0				

An extra charge will be made for a step entrance to any private grave, or for additional depth, viz. 1s. 6d. per foot, from 7 to 10 feet; 2s. 6d. from 10 to 14 feet; 3s. 6d. from 14 to 17 feet; 5s. from 17 to 20 feet; excavating, 3s. per cubic yard.

No. 4—(continued).

Fees payable to Parish Clerk:				£	s.	d.
1st class.	In each adult interment	..	..	0	4	0
"	" child's "	..	..	0	2	8
2nd class.	" adult "	..	..	0	1	6
"	" child's "	..	..	0	1	0
3rd class.	" adult "	..	..	0	1	6
"	" child's "	..	..	0	1	0

Fees payable to Sexton :*				£	s.	d.
1st class.	In each adult interment	..	..	0	4	0
"	" child's "	..	..	0	2	8
2nd class.	" adult "	..	..	0	3	6
"	" child's "	..	..	0	2	4
3rd class.	" adult "	..	..	0	3	0
"	" child's "	..	..	0	2	0

Fees for non-parishioners, add one-half more.

The same charges are made for interments in the unconsecrated as in the consecrated ground, and the same fee is allowed to Dissenting ministers as to the officiating clergyman.

* The office of sexton has recently been abolished, and the duties undertaken by the board, who now receive the sexton's fees.

—, Clerk.

[Date.]

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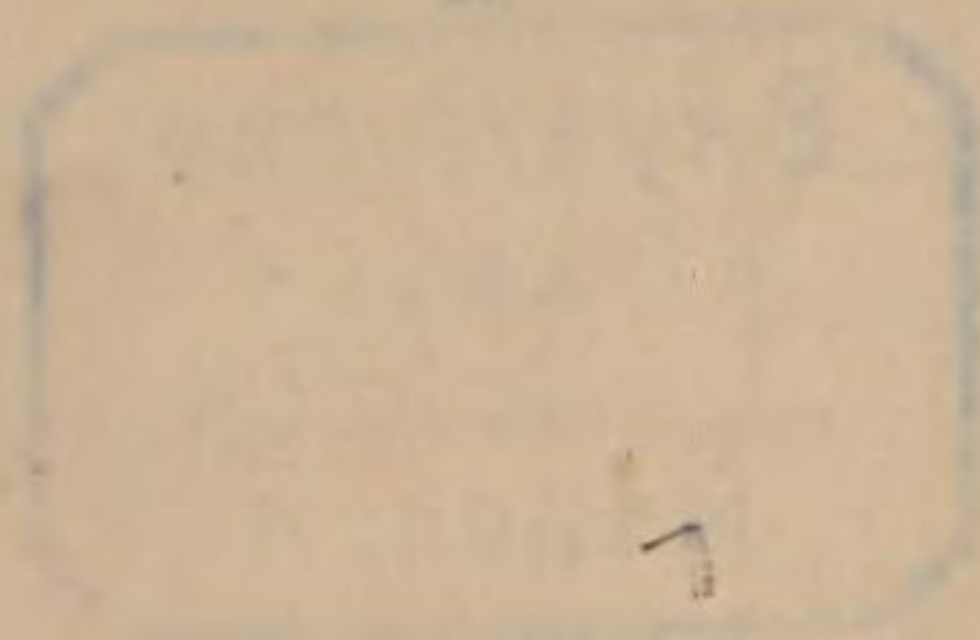
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